

TOWN OF GILMANTON
ZONING BOARD OF ADJUSTMENT
THURSDAY, JUNE 18, 2009 – 7 p.m.
ACADEMY BUILDING
MINUTES

Chairman Hackett called the meeting to order at 7:06 pm. Members in attendance were Elizabeth Hackett, Carolyn Baldwin, Paul Levesque, Ron LaBelle. Also in attendance were Annette Andreozzi (Land Use Clerk), Planning Board members- Nancy Girard, Gareth Martindale, David Russell, Daniel Hudson, Betty Ann Abbott (alternate), and Lynne Brunelle (Planning Administer).

The Chair made introductions and explained the ZBA procedures.

Joint Public Hearing ZBA Case # 10-2009 and Planning Board Case # 0909 J Daniel & Linda Lemieux: Request for Special Exception from Article 4, Table 1, to operate an Auto & Truck Repair Shop in the Light Business zone and Site Plan Review. Property located at 283 Province Road (NH Route 107N) of 17 acres and 700 feet of frontage in the Light Business zone. Town Map/Lot # 124/8.

Mr. & Mrs. Lemieux indicated that they lived at the address where they want to have the repair shop, which is across the street from the transfer station. Mr. Lemieux presently runs a trucking operation, but there isn't much work. He needs to operate a repair shop to make a living. He will do repairs inside the garage on any type of vehicle and motor. On the property, near the garage they are presently taking down a saw mill and leveling the ground.

Ms. Girard asked that there be a site walk for both boards. She questioned if the garage floor was concrete and are there perimeter drains. Mr. Lemieux said the floor was concrete and there are drains.

Mr. LaBelle stated that he drove on the driveway which is steep and he skidded. Mr. Lemieux said he drives a tractor trailer and his plow on the driveway all the time and has never had a problem.

Ms. Hackett inquired about the potential hours of operation, number of employees, and amount of traffic in and out .

Mr. Lemieux said he would have no employees and he wanted the hours to be flexible, but basically between 7-5. Also there would not be much in and out traffic, but the driveway is wide enough for 2 vehicles to pass.

There was a discussion about Mr. Lemieux's informal planning board visit where he had talked about parking a lot of big trucks on the property. That the planning board had told him they did not feel that parking or a repair shop was the kind of business for the light business zone, that his operation is better suited on Rte 106. The master plan defined Rte 106 as the commercial area. The planning board was confused about Mr. Lemieux's asking for something else, and wanted him to define the new scope. Mr. Lemieux said he is no longer looking at parking many trucks, that he wants to operate a repair shop and a contractors yard for his own equipment. He felt this was in keeping with the neighborhood which has a couple of construction companies and someone that works

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out of his garage and the transfer station is across the street. Mr. Lemieux said he doesn't live on Rte 106 and can't afford to live and work on Rte106; he is just trying to make a living, and not planning to make a big business. He showed pictures of his lot from the other side of Province Road and from the town owned lot # 7. From these areas you cannot see anything on Mr. Lemieux's property.

Ms. Girard read the definition of an auto repair shop from the zoning ordinance, then asked if Mr. Lemieux was considering using his building to store vehicles. Mr. Lemieux said he would store a vehicle for a customer for a period of time; we don't plan to keep vehicles and would avoid storing lots of vehicles. Ms. Baldwin asked how he felt about a condition that would prohibit him from storing unregistered vehicles. Mr. Lemieux said there is a ordinance already about unregistered vehicles, but he wouldn't want additional conditions that would keep him from working. Mrs. Lemieux said they will not have a junk yard.

Ms. Hackett informed the Lemieuxs that there were only 4 members of the ZBA present today and that they would have to have 3 yes votes to grant the special exception. She asked if they wanted to continue with the members available or wait until a later meeting when there might be 5 members. The Lemieuxs indicated they wished to continue today.

MOTION: Ms. Baldwin moved to close Public Hearing Case #10-2009 J Daniel & Linda Lemieux: Request for Special Exception.
Second by Mr. LaBelle. **Passed Unanimously.**

A recess was called for the ZBA to move downstairs and continue their meeting, while the planning board was having a separate meeting upstairs.

The ZBA reconvened at 7:40 pm.

Public Hearing Case #09-2009 Denise Coulstring: Request for a Special Exception from Article 4, Table 1, to have a consignment shop (retail business) in the Village zone. Property located at 1795 NH Route 140 in the Village zone. Town Map/Lot # 115/2

Pam Welch was present to speak on behalf of applicant and partner, Denise Coulstring; she presented a letter to that effect.

Ms. Baldwin asked for a procedural explanation of why Case 09-2009 was not a joint hearing with the planning board. Ms. Andreozzi explained that the applicant felt that the

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business was a home occupation and they needed to come to the ZBA for a clarification.

Ms. Hackett explained to Ms. Welch that there were only 4 members of the ZBA present today and that she would have to have 3 yes votes to grant the special exception. She asked Ms. Welch if she wanted to continue with the members available or wait until a later meeting when there might be 5 members. Ms. Welch wished to continue this evening.

The Board looked at definitions of cottage industry and home occupation in the zoning ordinance. They determined the consignment shop was not a cottage industry because the ordinance definition of cottage industry is "...materials for sale off-site. Use does not include on-site retail or showroom use." The board stated the need to determine how this business fits so they asked Ms. Welch to present her case.

Ms. Welch said they invited consigners to bring goods to them. They are open about 12 hours a week Friday-Sunday. Sunday is very busy. They want to operate the business year round.

Mr. LaBelle asked if they were already in operation. Ms. Welch said they had called the town hall and were told they could do anything they wanted so they opened. Ms. Coulstring lives on the premise and the business is in the former garage. There is parking for 2 vehicles in front of the garage and more next to and behind the garage if needed. After observing customers the applicants felt that they will need to put directional signs for the parking. They feel the business is an asset to village and lots of fun. There is no heavy equipment dropping off things.

There was a discussion about parking. How to have adequate & safe parking, and the number of people who might park on Rte 140 and speed down the hill. Ms. Welch indicated on the site plan where the off-street parking could be, and said signage might help.

There was discussion that most goods would be keep in the garage, but on good days some would be brought out. The type of goods would vary based on what people wanted. Right now toys seem to be in demand.

Ms. Hackett took a consensus of the board, which determined that the consignment shop is a retail business.

MOTION: Ms. Baldwin moved to close Public Hearing Case #09-2009 Denise Coulstring. Mr. LaBelle seconded the motion. **Passed Unanimously.**

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Continued Case #04-2009 - Mark A. Padula: Request for Variance from Article IV Table 2, requiring 200 feet frontage in the Business zone to build on a lot. Property located at 193 NH Route 106 in the Business Zone has 195 feet of frontage. Town Map/Lot #412/17.

Mr. Padula stated that last time there was an issue with the state's approval of his driveway. He informed the board that his neighbor had just been told that the state's District 3 office had given permission to use the driveway on his property (Mr. Martin's) as a pass-through to Mr. Padula's property. Mr. Martin has sold an easement to Mr. Padula.

Ms. Baldwin asked if the driveway would cross wetlands. Mr. Padula said no.

Ms. Hackett asked what he planned to do on the property. Mr. Padula said build a garage.

MOTION: Ms. Baldwin moved to continue Case #04-2009 - Mark A. Padula.
Seconded by Mr. LaBelle. **Passed Unanimously.**

Mr. Padula asked what he could do to move his case along. He was encouraged to make a reasonable sketch including the driveway and put flagged stakes at the driveway entrance so the board see where the driveway is, and a letter from Mr. Martin clarifying the driveway.

DELIBERATIVE SESSION:

Case # 10-2009 J Daniel & Linda Lemieux: Request for Special Exception from Article 4, Table 1, to operate an Auto & Truck Repair Shop in the Light Business zone and Site Plan Review. Property located at 283 Province Road (NH Route 107N) of 17 acres and 700 feet of frontage in the Light Business zone. Town Map/Lot # 124/8.

Ms. Baldwin - considering the location of this property, across from dump, the repair shop would be a good use. No one would want to have offices across from the dump. Ms Hackett – the planning board may have been concerned it would be a big operation, but this is a homestead were the applicants live.

Mr. LaBelle- this is the light business zone; auto repair shops do not fit the definition.

Ms. Baldwin- the repair shop could fit if there are conditions to limit unregistered vehicles, and make potential toxic concerns subject to site plan review.

Ms. Hackett – I don't want to limit the number of vehicles he can have on the property, because he has plenty of land, but I think we could restrict unregistered vehicles to no more than 4 at any one time.

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MOTION: Ms. Baldwin moved to grant the special exception in Case # 10-2009 J Daniel & Linda Lemieux: Request for Special Exception from Article 4, Table 1, to operate an Auto & Truck Repair Shop in the Light Business zone. Property located at 283 Province Road (NH Route 107N) of 17 acres and 700 feet of frontage in the Light Business zone. Town Map/Lot # 124/8.

- a. The site is appropriate for the use because it is located on a public highway, the area is already heavily trafficked, and across the street from the recycling facility.
- b. The use as developed will not adversely affect the neighborhood because there are no other residences in the in vicinity, it is well screened, and well set back from the road.
- c. Adequate & appropriate facilities will be provided for the proper operation of the proposed use, subject to site plan review of the management of all potential hazardous material so that
- d. There will be no nuisance or hazard created.
- e. There are no proposed structures.
- f. There are no additional requirements relating to Article X.

CONDITION:

No general storage of unused vehicles and no more than four unregistered vehicles can be parked on site.

Seconded by Mr. LaBelle.

Motion passed unanimously.

Case #09-2009 Denise Coulstring: Request for a Special Exception from Article 4, Table 1, to have a consignment shop (retail business) in the Village zone. Property located at 1795 NH Route 140 in the Village zone. Town Map/Lot # 115/2

Ms. Hackett expressed concern for the parking, stating the business will be busy and parking on Rte 140 is out of the question, but maybe a deal can be arranged with the church next door.

Ms. Baldwin- the whole idea of the village zone was for small businesses, so this application seems appropriate.

MOTION: Mr. LaBelle moved to grant a special exception to Case #09-2009 Denise Coulstring: Request for a Special Exception from Article 4, Table 1, to have a consignment shop (retail business) in the Village zone. Property located at 1795 NH Route 140 in the Village zone. Town Map/Lot # 115/2

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- a. The site is appropriate for the use because it is off a major highway.
- b. The use as developed will not adversely affect the neighborhood as the area has been an area of businesses including a day care center.
- c. Adequate & appropriate facilities will be provided for the proper operation of the proposed use.
- d. Subject to site plan review there will be no nuisance or hazard created.
- e. No additional structures are proposed.
- f. There are no additional requirements relating to Article X.

CONDITION: Site plan approval for adequate & appropriate facilities relating to off street parking.

Seconded by Ms. Baldwin.
Motion passed unanimously.

APPROVAL OF MINUTES

MOTION: Mr. LaBelle moved to approve the minutes of the May 14,2009 meeting as amended. Seconded by Ms. Baldwin. **Motion passed unanimously.**

MOTION: Mr. Levesque moved to approve the minutes of the May 21, 2009 meeting as amended. Seconded by Ms. Baldwin. **Motion passed unanimously.**

OTHER BUSINESS

The boards consensus was that they would have one July meeting on the 16th.

ADJOURNMENT: On a motion made by Ms. Baldwin and seconded by Mr. Levesque, meeting adjourned at 8:50 p.m.

Respectfully submitted,

Annette Andreozzi, Land Use Clerk