

Zoning Board of Adjustment meeting minutes for March 10, 2014

Present: Chair John Smith, Lewis Major, Vice-Chair Todd Page, Bruce Bellville and CDC Kathryn Lynch. Applicant and ten members of the public were present.

7:00 pm Chair John Smith called the meeting to order. Chair John Smith read the Public Hearing Notice and the Use Variance application #0314, of Article V, submitted by Rick Wetherby, tax map 30 lot 38-1, 11 Brown Dr. Chair John Smith explained that only four members of the Board were present not five, would he like to proceed with four, (yes).

Rick Wetherby explained that he needs a Transporter Plate (T Plate) to haul mobile homes in all state except NH. To receive a T Plate he needs to have a State Approved Office. To receive a T Plate from the State they require him to post a sign in a window of his home and a sign on the road. There will only be one truck and no employees. No structure change will occur so in his opinion that land value should not be effected.

Chair John Smith asked if there were any members of the public in favor of the Application.

Jackie Wetherby explained that Rick Wetherby does 90% of his office work in Winchester at her home and all of his equipment is there also.

Sandra Clark, abutter, explained that in these tough times we shouldn't take someone's livelihood away from them. She explained the Mr. Wetherby is a good neighbor and he is always helpful.

Mike Torunski, abutter, explained that because there will be no structure change and the vehicle will only be used as a work vehicle and travel in and out of driveway, he doesn't have a problem with the Variance. Has been a neighbor for over 10 years.

Linda Torunski, abutter, explained that she agrees with her husband, Mike. With only one vehicle and no structure change she doesn't see how it will impact the neighborhood. Rick Wetherby drives normal in and out of his driveway and is a responsible neighbor.

Fred Wetherby, business partner, explained that there was a problem with a MH years ago that showed up on Rick's property by mistake. Rick took care of the issue and it didn't happen again. Explained he is a good worker and is respectful, but needs to take over the business because Fred wants to retire.

Chair John Smith asked if there were any members of the public not in favor of the Application.

Donna Corriveau, neighbor, explained Rick Wetherby almost ran her off the road and then laughed about it when he first moved in. She explained that he drives his motorcycle fast in and out of the driveway and revs his engine throughout the summertime.

Jeanette McCauley, neighbor, explained that she presented the Planning Board on February 19, 2014 with a letter and an attached petition not in favor of the business. Since she didn't have a copy of the letter and petition the Planning Board asked her to make a copy and send it to the Planning Board. She sent it to the Zoning Board by certified letter after receiving the notice for an Application for a Use Variance.

Jeanette's opinion was if the Board grants the Use Variance it would change the zoning for the area.

John Smith read the letter with the attached petition from Jeanette McCauley, not in favor. "We the undersigned living on Plain Road are unable to attend the meeting but would like our voices heard. We want Plain Road to stay as a Rural Agricultural District and oppose having an in home office with one truck on site at tax map 30 lot 38-1 11 Brown Drive. We do not want a commercial business that would bring in extra traffic or the loud noises from his truck and the weight issues to the road. We are also concerned about the safety of the residents on and using the street to walk and/or bike. Children are also frequently playing in the area." The petition was signed by 14 neighbors and Jeanette McCauley.

Rose Gundry, abutter, explained that she understands that the truck that Rick owns is his livelihood and that he has a passion for trucks, she doesn't want to take anything away from him. Rose explained that Rick knew when he purchased the property on Brown Dr. that it was zoned Rural Agricultural. When Rick parks his vehicle it is about 20' from her home. The vehicles' back faces her kitchen and when it started it shakes her home and the smell of the exhaust goes into her home. Rose felt that she could never sell her home living next to an 18 wheeler. Rose explained that she purchased the rear lot for quiet and privacy, she felt this business would disturb both.

Chair John Smith read a letter from neighbor Barbara Cutler. "Dear Sirs: I regard to Public Hearing, March 10, 2014, at 7:00 PM in the Town Hall to address the application for a Use Variance submitted by Rick Wetherby for tax map 30 lot 38-1 Brown Dr., in the Rural Agricultural District. Being a property owner at 622 Plain Road and not wanting to see or hear more traffic or noise, and I also feel that this would lower the value of my property; therefore I would say no to the variance!"

Rick Wetherby, applicant, explained he was approved to bring his work vehicle home and leave to go to work in 2005, he will have no employees, the muffler on his truck is a straight pipe for less noise, his truck is a one axle truck not an 18 wheeler he presented a picture to the Board, his truck weighs 15.5 thousand pounds, he doesn't drive his motorcycle fast out of his driveway, he has tried to have his office in a couple places. He had an office at Fineline that the Town denied and another on Main Str. Hinsdale. He explained that three residences share Brown Dr. The lots were made with three ROW's to Plain Rd. The Town didn't want three drives on Plain Rd. so Brown Dr. was created for all three to share. Each lot has a 50' ROW or better on Plain Rd. He just wants to get his T Plate so he can have his office in his home. He explained that one sign will be on his sliding glass door in his home and the other will sign will be a Ground Sign and will be within the Sign Ordinance Guidelines and set back requirements. His truck is diesel and will need to warm up about 10 minutes before he leaves the driveway. Rick explained that he is not just a trucker he is a tax payer. Mobile homes are not brought to me, I go pick them up and deliver them to where they need to go, no MH's will come to 11 Brown Dr. If this doesn't pass I may have to have a farm at my property and then I will need to spread manure all over.

Chair John Smith reminded the people that the vehicle is Rick Wetherbys' work vehicle, he is allowed to have that per the Cease and Desist Order in 2005. What we are discussing is the Home Office. Per the Zoning Ordinance a Transportation Business is not a customary home office allowed in the Rural Agricultural District. Rick Wetherby needs a Use Variance for this Home Office.

Chair John Smith read the definition for Home Occupation:

Home Occupation – Any use, which is customarily or may properly be carried out for compensation, entirely within a dwelling by the occupant thereof which:

1. Is clearly secondary to the used of the dwelling for dwelling purposes.
2. Does not change the residential character of the dwelling in any visible manner.
3. Does not create objectionable noise, odor, vibrations, or unsightly conditions noticeable off the premises.
4. Does not create interference with radio or television reception in the vicinity, and
5. Does not create health or safety hazard.

Chair John Smith also explained what size and types of signs are allowed in the R/A District. Which is: Rural Agricultural District can have two signs from the following list (not to be duplicated) shall be located on the immediate property. Ground Sign, Projecting Sign, and Wall Sign. Chair John Smith explained that if the Use Variance is granted, Rick Wetherby will need to apply for a Sign Permit with the Building Inspector.

Lewis Major asked if the State requires Rick Wetherby to have a certain number of signs and what information shall be on them, (yes, I am required to have on the door or window of my home with hours and a ground sign in my yard).

Rose Gundry asked would it be possible to park your truck on the other side of your home so that it isn't so close to my home, (no, that is not the direction of my current driveway).

Chair John Smith asked what is the distance between the truck and the Gundry's home, (approx. 100').

Chair John Smith asked for further comments or questions, hearing none the Chair closed the public portion of the meeting and the Board worked on the Finding of Facts, listing five.

1. Rick Wetherby has applied for a Use Variance to have a home office, one truck or work vehicle is allowed per Cease and Desist Order in 2005.
2. Question from abutters pertaining to noise, odor pertaining to diesel truck, how close to Rose Gundry's home the truck is parked.
3. Home Office will have no employees just Rick Wetherby.
4. Rick Wetherby will need two signs per State mandates at 11 Brown Dr. The signs need to meet the Sign Ordinance Guidelines. The State needs to inspect the home office for Mr. Wetherby to receive a T Plate.
5. Rick Wetherby will need to have an approved Site Plan from the Planning Board if a Use Variance is approved.

Bruce Bellville made a motion to adopt the Finding of Fact, seconded by Bruce Bellville. Bruce Bellville made a motion to adopt the Finding of Fact, seconded by Bruce Bellville. Chair John Smith repeated the

motion and called for individual vote, Todd Page (aye), Lewis Major (aye), Bruce Bellville (aye), and Chair John Smith (aye). Motion passed unanimously.

Board members then worked on the Statement of Reasons and determined:

Chair John Smith adjourned this portion of the meeting to March 13, 2014 at 6pm to begin at 11 Brown Dr. so that the Board could perform a site visit of the properties to check distances. Chair John Smith instructed CDC Kathryn Lynch to communicate with Highway Superintendent Frank Podlenski about weight limits on Monument and Plain Roads. CDC Kathryn Lynch was also asked to notify all abutters of the site visit to the best of her ability.

Board Business:

Bruce Bellville made a motion to approve the minutes dated November 12, 2013, seconded by Todd Page, motion passed.

8:15 pm Lewis Major made a motion to adjourn, seconded by Todd Page, motion to adjourn unanimous.

Respectfully submitted by,

CDC Kathryn Lynch