

Town of Northumberland Zoning Board of Appeals
Minutes
December 3, 2008 7:00 pm
Corrected and Approved by the Zoning Board
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Present: Mark Boyce, Chairperson, Clint Barber, Vice-Chairperson, Hugo Leone, Bruce Bemis, and Gordon Strong.

Absent: Carl Harrison, Rebecca Hodgson and Patricia Brennan

Town Employees Present: Richard Colozza, Code Enforcement Administrator and Tia Kilburn, Zoning Board Clerk.

Mr. Boyce called the monthly meeting to order at 7:10 PM.
All in attendance stood and recited the Pledge of Allegiance.

OLD BUSINESS

None

NEW BUSINESS

Use Variance – Used Equipment Sales, Special Use Permit
Application #: 0011-08
Applicant: Daniel Reed
Location: Colebrook Rd & Route 50
Zoning: C/R
SBL: 116.-2-74

Mr. Boyce invited Mr. Reed to explain his proposal to the Board. Mr. Reed explained his proposal is for a satellite office for used equipment sales. He stated his original intent when he was preparing to open his previous business *Reed's Hydraulics* also located on Route 50 was to have used equipment sales at this site. He said he then had gotten away from the plan at that time.

Mr. Boyce asked if there were any questions from the Board.

Mr. Barber asked if he planned on only parking the equipment there. Mr. Reed said yes, there would be a satellite office on the back of the property and he would mostly sell from the internet.

Mr. Reed said there is *Blue Lupine* on this property he would stay away from.

Mr. Bemis asked if Mr. Reed had contacted the Federal Government then he also asked about the wet lands in the rear of the parcel. Mr. Barber also asked about the wetlands and discussion ensued on how large of an area it was. Mr. Bemis stated on or about March of the year 2002 that area became Federal Wetlands. Mr. Reed said at that time in 2002 he had received a letter that plan was cancelled and did not go through. Mr. Bemis said it did go through and surrounding parcels had to be delineated for the wet lands. Mr. Reed said that this was the first he had heard about those wet lands having to be delineated.

Mr. Barber asked Mr. Reed if it was sandy soil. Mr. Reed stated yes. Mr. Barber stated Mr. Colozza should have the wet land map they could look at. Mr. Reed then discussed the process he went through in the Town of Moreau where

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he owns land he had received letters from them. He was not aware of the wet lands being designated in his (this) location in the Town of Northumberland. Mr. Bemis said the Planning Board received a copy and notification of this area of wet lands. Mr. Barber asked Mr. Colozza if he had a copy of the map. Mr. Colozza said yes and he had a copy made and given to Chairperson, Mr. Boyce. Mr. Barber reviewed the copy of the map Mr. Boyce had with him and stated he did not see the wet lands in this area. Mr. Colozza said the Army Corps wet lands are not on that map and explained they are different from Federal Wetlands. Mr. Bemis stated Mr. Reed has to follow all the same rules other parcel owners had. Mr. Reed said he was told many years ago, in reference to his land in Moreau, he could eliminate the wet land issue by bringing in fill, however, he does not plan on doing that on this parcel.

Mr. Bemis asked if the office would be located on the back of the parcel. Mr. Reed said it would just be a small trailer to hold his business records.

Mr. Bemis asked if he would be performing any repairs on the premises. Mr. Reed responded no, usually he pays others to do repairs to the equipment.

Mr. Strong discussed the trees and the stone parking / driveway area as he reviewed Mr. Reed's sketch. Mr. Strong asked where the Lupine was on the parcel. Mr. Reed pointed out the Lupine he was aware of. Mr. Strong stated that 289' is not a lot of space. Mr. Reed said the lot has approximately 300' frontage and is about 500' deep. Mr. Barber stated it is roughly 2.2 acres.

Mr. Bemis asked Mr. Reed if he has an application from the State. Mr. Reed questioned the need for such an application. Mr. Bemis explained due to the endangered species on the parcel Mr. Reed needs State approval. Mr. Reed asked why, from who. Mr. Bemis said he needs a permit from NYS DEC. Mr. Reed said there was no endangered species on this parcel only the Blue Lupine plants no butterflies. Discussion ensued; if an application was needed from the State. Mr. Colozza stated that Cathy O'Brian, of NYS Dec, would give Mr. Reed instruction on what he can do and what to protect. Mr. Colozza then added Mr. Reed still needs a current letter from Ms. O'Brian and the Army Corps Engineer. Mr. Reed asked Mr. Colozza if he needed a permit from the State. Mr. Colozza said he needed a current letter, and then that should tell him if he needs a permit. Mr. Strong asked how the wet lands and the permit fit with this Board's decision if they are on the rear of the parcel. Mr. Colozza said this Board needs to establish if this plan is an intrusion in the neighborhood in order to do that they should follow the four questions in the Zoning Regulations and use logic to determine. Mr. Strong said Mr. Reed is responsible to prove it would not be an intrusion to the neighborhood. Mr. Colozza said the variance if approved, should also contain more information, such as the maximum number of pieces of equipment and the types of equipment (definitions included). Mr. Colozza added that the Board needs to know the details so they know what they are granting a variance for, the neighborhood impact, public access and the parking, adding Mr. Reed needs to show more of the details. Mr. Bemis agreed the plan needs to be more definitive.

Mr. Strong asked what was on the parcel now. Mr. Bemis responded there was a tractor trailer parked there and Mr. Reed corrected him and said it is a truck.

Mr. Strong asked if the office trailer would be permanent. Mr. Reed answered the trailer would not be permanent however, someday he may want a permanent building on the Colebrook Road side.

Mr. Bemis added Mr. Reed needs to show the entrance and the exit for the property. Mr. Barber asked if the entrance / exit would be on Colebrook Rd.

Mr. Strong asked who owned the adjacent parcels. Mr. Reed said access would be on Colebrook Rd and that he owned a surrounding parcel and his Mother in Law owned one. Mr. Bemis stated he himself owned one.

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Mr. Boyce asked if a trailer was allowed in that area. Mr. Reed said it was not really a trailer but a mobile office. Mr. Colozza said it would probably be a construction trailer. Mr. Strong asked if he needed a permit for the trailer and questioned the sewer, water and power. Mr. Colozza said usually there is sewer pickups for construction trailers he then added Mr. Reed would need a variance to park the trailer there. Mr. Reed said it would only be temporary.

Mr. Barber ask if this proposal of used equipment sales is one that would be allowed in the Town of Moreau where Mr. Reed owns more property. Mr. Reed said his property in Moreau was in the agricultural zone. Mr. Barber said Moreau should allow trucks to be parked in an agricultural zone and asked if Mr. Reed had approached them. Mr. Reed said no.

Mr. Strong stated more information is needed and asked Mr. Reed if he knew what he needed to do next. Mr. Colozza said the Army Corps would provide more information. Mr. Strong asked if that was where Mr. Reed could get a map showing the wet lands. Mr. Colozza said yes, and he would give Mr. Reed the address / contact. Mr. Reed stated he had a letter from Ms. O'Brian that was about a month old. Mr. Strong asked if Ms. O'Brain listed any concerns in the letter. Mr. Reed said she just referenced the plants and to keep everything away from them. Mr. Strong said the Board needs to know exactly where the plants are located on the property. Mr. Bemis added, they need to know the location of everything on the parcel. Discussion ensued on the location and solution to the Lupine.

Mr. Reed said he was interested in this Boards input, he is going to have this parcel surveyed, however, he wanted something preliminary before spending money. Mr. Bemis said the State will tell you where the Lupine and wet lands are and that wont cost anything. Mr. Reed said the State will give him a sketch of locations similar to the sketch he submitted. He added he will have it surveyed to find the exact property lines, locations, footage and frontage. Mr. Bemis stated the State will want access to the parcel, and Mr. Reed said that was not a problem. Mr. Bemis said Mr. Reed still has to contact Ms. O'Brian for an application. Mr. Reed responded he had talked to her and she will come up and show him exactly where the plants are. Mr. Bemis reiterated Mr. Reed needs an application for a permit and nothing can be done until then. Mr. Reed could contact John Connell in Troy in reference to the wet lands with DEC. Mr. Reed said he still did not believe there were wet lands on this parcel, otherwise he would have been notified. Mr. Bemis stated this Board has access to the Planning Board files and can obtain a copy of the notification. Discussion ensued on determining wet lands and Army Corp V. DEC wet lands.

Mr. Barber asked Mr. Boyce if they wanted to set up a Public Hearing. Mr. Bemis said they need more information. Mr. Leone agreed. Mr. Colozza said this file still needs to go to County Planning. Mr. Boyce explained to Mr. Reed more information was needed to submit to County Planning, a more detailed map / plot plan and the trailer is not allowed for use as an office. Mr. Reed said that was not a problem. Mr. Boyce said if there will be a permanent structure that will need to be on the plot plan as well. He then explained the public hearing relies on all the information getting to the County and a response received back from them. Mr. Reed asked what kind of additional information was needed and the time frame he had to gather it.

Mr. Boyce replied;

Wet land delineation,

the Habitate questions answered,

the exact layout of the parcel and a more definitive intended use for minimal impact on the neighborhood (ie; # of equipment pieces).

Mr. Reed said he had no idea how many pieces he would sell, there are other businesses in the area and he does not believe they had to specify. He added he will show exactly where the plants are located and the footage but it is impossible to tell the number of sales he will have. Mr. Boyce explained he did not have to specify however the Board needs to consider the minimal impact on the community and the application needs to be complete, if he does not

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specify the number of pieces of equipment the application could be denied. Mr. Reed questioned the statement of minimum impact and the usage of the area as C/R (Commercial / Residential). Mr. Boyce explained Mr. Reed needs a use variance because equipment sales are not an allowed use. Mr. Colozza interjected the Town allows that specific use in the Hamlet Zone, however when they re-zoned the use was removed from the C/R zone and that is why the Board needs to look at the impact for that area. Mr. Boyce said the County needs the same information as this Board.

Mr. Bemis said this Board should table this application until all information is received then move to the public hearing due to the time limit for a vote, and in addition they have not addressed the signage. Mr. Reed said the signage would consist of a NY State Registration posted on the office trailer. Mr. Bemis asked if it would be by the Road. Mr. Reed replied no, it will only be a satellite office on the rear of the parcel. Mr. Barber reiterated, then the sign wont be seen from Route 50. Mr. Reed said no.

Mr. Strong questioned why they could not schedule a public hearing and receive the additional information then. Mr. Colozza explained the burden is on Mr. Reed to collect required information. The public hearing will cost him money. Ms. O'Brian may not be able to provide all the required information in a timely manner and once the public hearing has begun that is it, the clock starts and the time limit is only so long then a decision has to be made. He added if the information is not received in time, Mr. Reed will have to start over and that will double the money due. Mr. Reed said he did not have a problem with this the Board tabling this application until all information is received. Mr. Leone told Mr. Reed they will see him next month.

Mr. Reed asked if he had to re-submit the entire application. Mr. Leone responded no, the information will be added to the current application as it is received. Mr. Colozza reminded the Board they need the Long Form SEQR and a letter from The Army Corps.

Mr. Reed asked if Mr. Bemis's parcels contained wet lands. Mr. Bemis responded yes and he had received a letter. Mr. Reed said he never received anything himself.

Mr. Bemis addressed the Zoning change for that area. Mr. Colozza said it was re-zoned in 2006 and it previously was R/O (Residential Office). Mr. Bemis asked if it was commercial zoning anytime before. Mr. Reed responded a long time ago.

Mr. Reed then thanked the Board for their time and stated he would be back next month.

ACTION

The clerk will research the Planning Files for information on wet lands. At the request of the applicant the clerk will also research the applicants previously approved Site Plan for Reed's Hydraulics. Mr. Colozza will give Mr. Reed information to contact Army Corps.

Tabled, more information is needed;

Long Form SEQR

Habitat Questions Answered

Frontage and Footages (survey)

Signage

Entrance / Exit

DEC / Army Corps – wet land information

More definitive plot plan

Maximum number of equipment pieces (definition / types?)

Current letter from Cathy O'Brian with instructions

(if State application is needed) the Applicatio

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MISCELLANEOUS

The Clerk asked the Board if they would like to recommend to the Town Board a new Alternate be appointed to replace Patricia Brennan because she has not attended meetings since December 2007. Mr. Boyce responded yes.

Mr. Leone made a motion to recommend a replacement alternate member be appointed,
Mr. Barber 2nd the motion,
All in attendance unanimously agreed.

Mr. Boyce asked if there was anything further.

Mr. Barber asked if they could go into Executive Session, Mr. Boyce responded yes.
Entered Executive Session at 8:15 PM.
Out of Executive Session at 8:27 PM.

Mr. Bemis made a motion to close the monthly meeting at 8:27 PM,
Mr. Barber 2nd the motion,
All in attendance unanimously agreed.

FUTURE MEETINGS

Regular Monthly Meeting, January 7, 2009 – 7:00 PM

Respectfully submitted,
Tia Kilburn, Zoning Board Clerk