

TOWN OF SOUTHBURY
ZONING BOARD OF APPEALS
REGULAR MEETING
APRIL 7, 2009
(summary of meeting)
(subject to approval)

MEMBERS PRESENT: Lemuel Johnson, Jr. – Chairman; Peter Peterson; Geoffrey Ice; Paul Sullivan; Alternate - Robert Lieber; Robert Greene

Alternate - John Bucciarelli arrived at 7:37 p.m.

MEMBERS ABSENT: Douglas Breakstone – Alternate

OTHER'S PRESENT: Member of the press and other interested parties

CALL TO ORDER: Chairman Johnson called the meeting to order at 7:30 p.m.

PLEDGE OF ALLEGIANCE

Chairman Johnson asked all those in attendance for a moment of silence in memory of the recent passing of Vice Chairman, J. Peirce Behrendt who served with pride as a distinguished member of the Zoning Board of Appeals for seventeen years.

SEATING OF ALTERNATES:

Robert Lieber was seated for J. Pierce Behrendt

OUTSTANDING APPLICATIONS:

There were no outstanding applications.

PUBLIC HEARING:

Application #7415 Melvin & Mary Tomlinson/owners, and Attorney Robert J. Uskevich/applicant – applying for a variance of Section 8.8.4 (Processing) of the Zoning Regulations, relating to setback requirements so as to permit the use of processing equipment during the site development of the property. Property located on Southford Road at the Intersections of Routes 67 and 188, Zone B-1A.

Attorney Robert Uskevich representing the applicants offered some background noting the application is currently before the Planning Commission for approval of the site development plan consisting of a commercial nursery with greenhouses and the excavation of approximately 30,000 cubic yards of material. The applicants will move Krikits current location across the street to this site. The proposed development will consist of approximately 5,000 square feet of retail and office space and also 7,000 square feet of three greenhouses. During the site development process with the Planning Commission it was brought forward that the commission did not have the authority to grant a variance allowing the use of the processing equipment within the setbacks distances. He continued if approval is granted by this board the

applicant will need to return to the Planning Commission for a modification of the site development plan to allow use of the processing equipment to take place on site.

With regard to the zoning regulations Mr. Uskevich explained the processing equipment is required to be located at least 300 feet from any other structures and 150 feet from the street line.

Chairman Johnson corrected Mr. Uskevich and noted for the record the distance is 150 feet from any other property line as well as the street line or less than 300 feet from any structure.

Return receipts were submitted for the record.

Mr. Uskevich further explained the plan would allow for the temporary stockpiling of excavated material that would be processed before being removed from the site. Truck traffic would be 50% less if allowed to use the processing equipment on the site.

At this time Mr. Uskevich had requested a correction to the variance application as on page two, line b. of the application, an incorrect distance of 101 feet to the street line was noted. The correct distance should have been 10 feet to the street line. A hardship currently exists as the size of the property is not large enough to allow placement of the processing equipment on the site.

Engineer, Ted Crawford of Milone & MacBroom gave an overview explaining the proposal is to place the processing equipment in a central area of the site in order to cut into a large rock slope and then move the equipment steadily back to the rear towards the applicant's home as the slope is removed. The processing equipment would be located approximately 220 feet from a commercial structure owned by William Griffin of GSG Enterprises, LLC. west of the property, approximately 60 feet from the nearest residential property to the rear, and 150 feet from the existing property located to the east.

Mr. Uskevich explained as the applicant would be the nearest residential home to the processing equipment their plan was to merge lots 5 & 6A with a small section of lots 4 and 7.

As to the hardship Mr. Uskevich explained the property around the applicants was developed first and as a result has made it impossible to place the processing equipment on the site where it would not be within the setbacks. There may also be a hardship to the town as to the length of time it would take to remove materials off site for processing and return back to the site if a variance is was not granted.

Commissioner Peterson questioned whether or not a variance would be required if all four properties were combined and the processing equipment could be moved to another area of the property.

Mr. Crawford answered the setbacks to structures would be difficult to adhere to as some properties located on Burma Road include wetlands areas that cannot be disturbed and the processing equipment would be closer to these residential properties.

Commissioner Sullivan questioned the number of truck loads needed to remove the material and the length of time to do so.

Mr. Crawford explained if processing were to take place on site approximately 1,000 - 1,500 truck loads would be needed; if unprocessed approximately 2,000 - 2,500 truck trips with a time frame of 6 to 12 months. The amount of processing to be used on site is approximately 1,000 to 1,500 square feet.

Commissioner Greene questioned the effect of the processing equipment to the neighbors and the distance to the residents on Burma Road.

Mr. Crawford explained the closest Burma Road resident would be located 360 feet from the processing equipment of which noise and dust controls would be implemented and maintained during the processing.

Mr. Uskevich stated as the applicant would not be renewing her lease on which the current garden center is located, the applicant wished to start the process as soon as possible.

Correspondence was received in support of the application from abutting property owner William Griffin, Sr. (G.S.G. Enterprises, LLC) of 1450 Southford Road in a letter dated March 15, 2009.

No one spoke in favor of the application.

The following people spoke in opposition to the application:

John Banks of 149 Burma Road - gave concern with the number of trucks entering and leaving the site and the amount of dust created by the processing.

Gary Diamond of 128 Burma Road - gave concern to health issues relating to dust and offered some information to the board.

Bill Davis of 66 Quaker Farms Road - questioned the distance of the setbacks to the property lines.

Chairman Johnson read the setback requirements of the zoning regulations for Section 8, Line 8.8.4 into the record highlighting the distance of 150 feet to the any property lines or street line.

Mr. Uskevich addressed the Chairman's concerns with regard to setbacks from property lines. The variance requested from the street line would be 10 feet, and variance request from the Tomlinson's property would be 20 feet.

Chairman Johnson noted distance limitations apply to both the structures as well as the property lines.

Mr. Uskevich was asked if the applicant wished to withdraw the application and resubmit at another time as it did not reflect a request for variance from the property lines.

The application was withdrawn by the applicant.

Chairman Johnson noted for the record the application has been withdrawn due to the improper language of the application for consideration by the board.

Fees would not be waived upon re-submittal of the application and a letter of withdrawal must be received by the Zoning Office.

DISCUSSION AND DECISION:

There was no discussion as the application was withdrawn by the applicant.

NEW APPLICATION:

Application #7444 David & Kathy Blersch/owners, Sara Blersch/applicant – applying for a variance to Section A-9.1 of the Zoning Regulations, relating to the 50 foot property line setback of commercial nurseries and greenhouses so as to permit an existing building (farm stand) in connection with a business to be located 11 feet from the property line. Property located at 124 Horse Fence Hill Road in an R-60 Zone.

The above said application was received and a public hearing date was set for May 5, 2009.

ELECTION OF OFFICERS:

On a motion by Commissioner Peterson and seconded by Commissioner Sullivan, the motion to re-elect Lemuel Johnson, Jr. for another term as Chairman was unanimously approved.

On a motion by Commissioner Ice and seconded by Commissioner Greene, the motion to elect Peter Peterson as Vice Chairman was unanimously approved.

MINUTES:

Approval of Minutes – January 6, 2009

On a motion by Commissioner Peterson and seconded by Commissioner Sullivan the minutes of the January 6, 2009 meeting were unanimously approved.

CORRESPONDENCE:

Land Use Ordinance (Section 10-2) Fee Schedule – Received from the Town Clerk's Office a copy of the legal notice announcing the Board of Selectman's recent approval of an amendment to the Town Ordinance Fee Schedule which provides that applicants must incur the expense of any specialized technical reviews necessary to properly evaluate an application before the

Zoning Board of Appeals, Zoning Commission and Planning Commission. The amendment became effective on March 1, 2009.

BILLS:

The following invoice was acknowledged for payment:

01/27/09 Byrne & Byrne Law Offices - Professional services for the Barry appeal application, \$1,000.00 (Purchase Order #60598)

ANY OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE BOARD:

There was no other business noted.

ADJOURNMENT:

On a motion by Chairman Johnson and seconded by Commissioner Greene the meeting was adjourned at 9:00 p.m.

Respectfully submitted,

Deborah Zachariewicz
Secretary