

TOWN OF GREENFIELD

PLANNING BOARD

April 28, 2015

REGULAR MEETING

A regular meeting of the Town of Greenfield Planning Board is called to order by Tonya Yasenchak at 7:00 p.m. On roll call, the following members are present: Tonya Yasenchak, Nathan Duffney, Michael Gyarmathy, Thomas Siragusa, John Streit, and Robert Roeckle, Alternate. John Bokus, Stan Weeks, and Charlie Baker, Town Engineer are absent.

MINUTES – March 31, 2015

MOTION: B. Duffney

SECOND: M. Gyarmathy

RESOLVED, that the Planning Board waives the reading of and approves the minutes of March 31, 2014, as submitted.

VOTE: Ayes: Duffney, Gyarmathy, Yasenchak, Roeckle

Noes: None

Absent: Bokus, Weeks

Abstain: Siragusa, Streit

MINUTES – February 24, 2015

MOTION: M. Gyarmathy

SECOND: T. Siragusa

RESOLVED, that the Planning Board waives the reading of and approves the minutes of February 24, 2015, as submitted.

VOTE: Ayes: Gyarmathy, Streit, Siragusa, Roeckle

Noes: None

Absent: Bokus, Weeks

Abstain: Duffney, Yasenchak

PLANNING BOARD CASES

ROBERT BACIGALUPO – Site Plan Review/Special Use Permit

NYS Route 9N

Robert Bacigalupo and Michael Toohey, Attorney, are present. T. Yasenchak states that this was granted as a renewable permit. M. Toohey states that he was present at several of the meetings at which this was discussed and he has had an opportunity to review all of the very thorough minutes as to what went on at that time. He states that they are hoping to end this evening what has been one of the most stressful years of B. Bacigalupo's life. He is a young guy running a business and he didn't know for a year whether or not after this date he would be able to continue to do that. He states that the applicant has complied with every possible term that the Planning Board placed in the special use permit plus several other things. On May 27, 2014 the Board granted a special use permit which is a permit that allows the applicant to run a Contractor's Storage Yard, Large. Very specifically within the meeting minutes the Board took the time to review Section

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105-54 which is the criterion for granting a special use permit and by unanimous vote the Board decided that the applicant complied with all those terms and the Board put special conditions on the approval asking the applicant to come back in one year. They assume that is to make sure that everything has worked out the way that they wanted it. He states that they believe that the applicant has absolutely complied with all of the terms that the Planning Board placed. Hours of operation were one of those terms for unloading and loading his trucks, which was 6:00 a.m. to 7:00 p.m. Monday thru Friday, 7:30 a.m. to 2:30 p.m. on Saturday and no business on Sunday. M. Toohey states that one of the hardest things for him to do as an advocate for people is to prove a negative, that they haven't been doing something. He states that when B. Bacigalupo came to him in January, M. Toohey had him, from that day going forward; keep a log of the three major trucks as to when they start and when they stop. They have those logs if the Board would like a copy and that they show that the applicant was in perfect compliance. This had to do with loading and shutting down, and in virtually all the cases the machines weren't even started during those time frames because he understood what the criterion was. The Board asked the applicant to plant some trees and they are hard to see, but he indicates their location on the aerial photo they have brought with them, which was taken in September. M. Toohey states that this is the best looking contractor's storage yard he has seen in his entire life. He indicates the area where the fence has gone up and some of the trees. Another thing that B. Bacigalupo did in January was to send a letter to the Planning Board members inviting them to visit the site at any time to make sure that the applicant was complying. It is hard to prove what they are not doing; you have to be able to see it for yourself. Last year when the applicant started this, the applicant had a plan and M. Toohey provides copies at this time and another plan indicating certain locations. M. Toohey circulates before and after photos corresponding to those locations. The Board and applicant had come up with a plan by which both sound and light would be deterred from traveling to the north. He states that an extraordinary event was agreed upon, that B. Bacigalupo would build a 300' long 10 to 12' high fence. In many communities fences of that height are not even allowed. The Town of Greenfield does not have an ordinance that says you cannot do that. M. Toohey refers to the second plan with locations indicated matching the photos showing the fence and landscaping on which the applicant spent \$17,000 so that he could continue to operate what is his family's business and the source of his family's income. M. Toohey states that he has been to the site and that the trees that the applicant was required to plant are exactly as was indicated on the plans that were approved. He states that what this Board was attempting to achieve was the shielding between this property and the neighbor to the north. As you are looking at the plan, and the corresponding pictures, the photos were taken from virtually the same locations as the first set of photos. You can see the impact that the fence has. He states that it is very hard to tell how big the fence is unless you are standing there. It is a 10' fence, the level of a basketball hoop, and at points, because they wanted it to look even because of the contours of the land, it extends to 12', as they wanted it to look appropriate as opposed to slanted. The applicant's family has to look at this fence along with the neighbor. M. Toohey states that more than any fence he has ever seen, this fully shields the two properties from each other. There was a pathway that was carved when there was a more neighborly relationship between the two properties and one of the concerns was to block that off – the fence covers that. The fence also has trees on both sides which will mature over the course of time as to become a significant barrier between the two properties. Those are the conditions that the applicant had to comply with within that 60 day period, and G. McKenna was out there on behalf of the Town and confirmed that that was done. B. Bacigalupo's intent from the beginning, and the minutes reflect that, he wanted to do that and more than that. Since the time of these meetings he has also undertaken a number of extraordinary actions so as to protect the quiet and peace of that neighborhood. As you can see in some of the pictures, B. Bacigalupo is not driving pickup trucks, he is driving large hauling pieces of construction equipment and every one of those is equipped with a backup alarm which some people find that noise incredibly aggravating. B. Bacigalupo has equipped all of his major trucks with toggle switches so that when they come on to the property they can toggle off so that that backup beeper no longer beeps. They are backed into the garages and the toggle is turned back on so that the next day they will be back on. Those were installed by him for the sole purpose of understanding that the intent was not just to put up a fence and a bunch of trees, but to try to diminish the amount of noise that was being produced. To those who have been to the property, M. Toohey states that they have seen that all the commercial buildings that are shown have lighting on top or in the eaves. All the lights are directly pointed down so there is no spill of light that comes off of

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this site and splays over to the next door neighbor. He does not think that it did before, but certainly it cannot do that as it hits the ground and now hits this fence. The fence itself is more than 50' away from the boundary line so it is not a fence that is encroaching upon the next door neighbor's property; it is well on B. Bacigalupo's side of the line and is placed in the woods so as to better blend with the area. He states that B. Bacigalupo will not use jakes brakes as he is coming into his property or leaving. Every other truck coming down that hill uses those because M. Toohey has sat there and heard them. There is a tremendous amount of traffic going back and forth on that road. If there is noise that is being generated, it is being generated on the road. M. Toohey explains the routes that B. Bacigalupo's trucks take internally around on his property so that the lighting from those trucks is not being directed towards the neighbor's property. The applicant has attempted to become a good neighbor based on the conversations that the Planning Board had with him last year and the Board has one year worth of proof. That is the purpose, M. Toohey believes, to giving the applicant a temporary approval. It is their understanding that with these changes and how B. Bacigalupo has handled his business on this site, that there has not been another complaint specifically having to do with the issues that B. Bacigalupo was charged with violating and were concerns documented within the minutes. M. Toohey states that he thinks that everything that B. Bacigalupo was asked to do he has done. Everything that B. Bacigalupo could think of doing he has done. He has invited the Board to visit his property to prove it for themselves. He thinks that with this, this Board should grant him the special use permit without it being renewable and having to worry that from year to year that something may happen that is going to take from him and his family the business that he uses to support them. The applicant has done what was asked of him and the Planning Board should allow him to have a permanent special use permit. T. Yasenchak states that G. McKenna has noted that as of today's date, 4/28/2015 at 2:00 p.m., the Town has not received any complaints concerning this use. T. Yasenchak reiterates that the Board had granted a special use that would be renewable, not a temporary special use permit. B. Duffney states that at the end of the meeting where B. Bacigalupo received his decision, complaints were discussed and he said "no written citations". Apparently there have been no citations written to B. Bacigalupo. He states that by putting the toggle switches on the reverse alarms, the applicant is taking a chance of being kicked off of a job if one of the drivers forgets to turn that toggle back on. M. Toohey states that he told B. Bacigalupo the same thing. He was so concerned about what is going on here at the town level that he understood that and is willing to risk his business. B. Duffney states that is what he is saying – B. Bacigalupo is taking a risk. He states that there have been no written citations and he would say to grant the applicant his permanent permit. T. Yasenchak states that as far as granting the special use permit, our code does say that we "shall" hold a public hearing so we will have to set it for the next meeting.

AXEL SONDHOF – Site Plan Review – Amendment

Daniels Road

Dr. Sondhof is present and states that he recently received an extension for his project which entails building a 4000 square foot facility. As it has further developed, he is now asking to add another 1000 square feet which would allow him to add two mare and foal stalls. He realizes that at the time he was just below some additional requirements as far as storm water management is concerned. He is here to inquire more about what would be required of him to get permission to extend this facility to 5000 square feet. His original site plan does include a SW management plan. The file is reviewed and it states that the building would be 3325 square feet. T. Yasenchak states that since the original approval did state it was for 4000 square feet, and the SW management plan all had the details for a 4000 square foot building, then the applicant would need to have revised plans that show the 5000 square feet; we would need to know how that affects the rest of layout, how that affects the driveway and parking, the septic system, etc. T. Yasenchak suggests that the applicant have Elan catch up with the engineering and the site plan, and then he can get that back to the Board. It is something that the Board would be able to look at to take action and make a decision on. She states that it seems the Board does not have any concerns as long as the engineering issues are taken care of. We will have to have the complete plans in order to take action. We did do a SEQRA form and part of the action that we would take is just reviewing to make sure that the revision would not affect the SEQRA.

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R. Rowland asks if the long form SEQRA would be required. T. Yasenchak states that we will have to check that with the Town Engineer.

DISCUSSION

T. Yasenchak explains that, in the case of a renewable special use permit, the Town Code states that a public hearing “shall” be held and that is how we have handled it in the past. If we give a renewable permit is so that we can see how they are interacting with neighbors, even though none of the Board members had any issues and there were no citations.

ZBA REFERRALS

STEWART’S Shops #360 and #310 – Area Variance

Middle Grove Road and Route 9N

T. Yasenchak states that there are two applications, one for the Middle Grove location and one for the Route 9N location, for area variances for the replacement of signs. The way the code reads is that if someone has a pre-existing, non-conforming sign, before they amend that sign or revise it, they do need to receive a variance for it. R. Rowland states that the sizes are changing a little, the locations of the free standing signs are not changing and they are also requesting a variance so that they can be internally lit. The logo has changed. Middle Grove is changing the sign on the building itself, also. R. Roeckle asks if we have a requirement on how signs are measured. T. Yasenchak states that when she looks at the signs as they are proposed and as they exist at Middle Grove – the existing sign seems to be dark on the top with the letters being lighter so if it is internally lit, it would be less of a nuisance than if the whole entire sign was lit as at 9N. Will that have more light cast off to neighbors? Would it be more visually imposing on neighbors because there is twice as much light coming thru it? 9N is not as much of a residential neighborhood. The suggestion is made that the signs can be externally lit as in other towns. The Planning Board has no concern with the size of the signs but does have a concern with the internal illumination and the potential glow or light glare on the adjacent neighbors in the residential area.

DEREK & JENNIFER ZEH – Area Variance

Bump Hill Road

The applicants are seeking area variances for additions to their home. No Planning Board issues.

DISCUSSION

T. Yasenchak states that the Board received a letter today from D. Evans and everyone has a copy. We are still waiting for D. Evans to meet his contingencies for the recently approved subdivision and lot line adjustment – easement language, the markers for the Fire Department, etc. What he has requested the Board to do is to grant him a type of certificate of occupancy for his driveways, more or less, so that he does not have to revise the driveways at any time. A letter was received from his engineer stating that they meet the town specifications for driveways now. Based on that letter the applicant wants our Board to grant him a type of certificate of occupancy so that he will not have to do anything with those. T. Yasenchak states that that is not something that we do, it is not within our purview, and it is also not something that G. McKenna does because it is something that gets looked at again when they build the houses. If they don’t build the house for 10 years and the driveway washes away– it needs to be maintained. T. Yasenchak states that she,

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R. Rowland and G. McKenna have spoken to the applicant and corresponded by e-mail, etc., saying such and he continues to request to be in front of the Board to ask for that. However, because we do not have any method to do that, there is no application to do that and it is not within our purview in the Zoning Code to do that, we continue to say no. It is not that we do not want to hear property owners or have them come in and discuss issues that they have on their property; in this case she does consider the matter closed until he meets his contingencies. If the applicant has any revisions he would like to make to his subdivision, then he has the right, as any other property owner, to file an amendment and an application. T. Yasenchak states that we are also holding fast even though the new plans he provided to us still had the driveways named. R. Rowland states that he recently delivered revised plans with the names removed. T. Yasenchak states that we had given approval and asked that the driveways not be named so that there would be no confusion that they would actually be roads. He submitted revised plans including those names and we asked that they be removed. T. Yasenchak states that if after reading the letter anyone has any questions or concerns that it needs to be addressed in a better manner, please feel free to send us an e-mail. B. Duffney states that he is behind T. Yasenchak on her decisions. T. Yasenchak questions of holding fast to the contingencies. B. Duffney concurs.

Meeting adjourned 7:50 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland
Secretary