

**TOWN OF GREENFIELD**

**PLANNING BOARD**

**FEBRUARY 10, 2009**

**REGULAR MEETING**

A regular meeting of the Town of Greenfield Planning Board is called to order by Gary Dake at 7:00 p.m. On roll call, the following members are present: Gary Dake, Lorna Dupouy, Michael Ginley, John Streit, Michael Thrailkill, Tonya Yasenchak and Nathan Duffney, Alternate. Thomas Siragusa is absent. Gerry McKenna, Zoning Administrator is present. Charlie Baker, Town Engineer, is absent

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**JANUARY 27, 2009 MINUTES**

MOTION: T. Yasenchak

SECOND: J. Streit

RESOLVED, that the Planning Board waives the reading of and accepts the minutes of January 27, 2009, with the following correction:

REOME – correct to read “...J. Reome does AAA and no one **else** in the Town does.

VOTE: Ayes: Dake, Duffney, Dupouy, Ginley, Streit, Thrailkill, Yasenchak

Noes: None

Absent: Siragusa

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**DISCUSSION**

**JOHN REOME**

G. Dake states that he received a voice mail message from J. Reome and spoke with him before reading the minutes. He discussed with J. Reome that he should get an application in for a Special Use Permit for a home occupation. We can then talk about whether or not it meets.

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**GERALD & RHONDA MAHAY**

G. Dake states that he read with interest the discussion on the Mahay application and greater interest the letter from the neighbors who are absolutely thrilled with the language of their easement. Eventually, if G. Mahay comes forward with his application the Board will have to take a position one way or the other and leave it to the aggrieved party, whether it be the neighbors or the applicant, to say that they disagree. G. Dake states that he did not find the memo from M. Hill to be a clear interpretation, there are no bright lines, and he thinks that the Board could make a solid argument on either side. He thinks that we need to just hold this until G. Mahay proceeds with his application and when he does we can talk about the merits of it. The Planning Board could deny on some other grounds, in which case the question of the easement is moot or it could simply be a partial reason behind a decision. T. Yasenchak states that she agrees we should sit on it until the applicant brings something back to us as we all realize that the applicant was very vague and varied, and the Board cannot make a good determination. However, she thinks that our attorney’s opinion was just as vague and as was mentioned at the last meeting, we asked the attorney to provide us with legal counsel and the Board should not be interpreting legal documents. G. Dake states that on his reading, M. Hill said that we could make a case either way. It is not a clearly written document, it doesn’t say you can’t do it and

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it doesn't say that you can. T. Yasenchak states that the Board came up with the fact that it could go either way. If you hire an attorney you ask them what direction you should take so that you know that direction has more legal ground than any other option. She does not think that M. Hill clearly gave us an option to pursue, that he just stated the case either way. She wishes that we were given options with what the ramifications would be. J. Streit states that at the recent Saratoga County Planning conference, Mark Schachner gave a lecture and one side comment he made was that he was glad that he does not have to make the decisions, he only gives advice. In this case, J. Streit states that he would say that the advice could not lead to a decision. G. Dake states that as the person who usually, from this Board anyway, is speaking to the attorneys, he has learned that he has to think very carefully about how to phrase his questions. Saying "I want to do this, how do I make it happen" or "I don't want to do this, how do I prevent that from happening" and in this case all he asked was a very open-ended question requesting an interpretation. G. Dake states that if the Board would like, he can pursue it further and try to get a recommendation on which is going to be the safer approach. J. Streit states that G. Dake had stated that the Board will have to rule, that seems to be a legal question and he does not know that the Board can do that. Ruling on the whole plan is one thing, but ruling on the easement would take a legal interpretation. M. Ginley states that if he were hired and asked what the answer was, the only way to find the answer would be to do some serious research into cases. It is vague so you have to find that case which has the exact facts and whatever is closest and see what the Court ruled on. The attorney would find the answer, but it would take hours and hours of research. L. Dupouy states that it is not worth doing at this point on two counts - we don't even know if the applicant is going to come back, and we received the letter from the neighbors and all she got from reading that letter is that they are happy with their attorney. They didn't say what it is, whether they are for it or against it. The only way to know for sure is to have a public hearing. G. Dake states that is a good idea, getting to a public hearing stage is probably a good idea. J. Streit states that in requesting legal opinions we may be spending the Town's money on something that may never come up.

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## **JOHN REOME**

John Reome and Jeannette Cross are present. G. Dake asks if J. Reome has an application for the Board. J. Reome states that he has filled out part of it but it is not complete and he does not have it with him. G. Dake explains that he did speak with J. Reome and J. Cross about getting in an application and applying for the home occupation is going to be the way to best move this thing forward as quickly as you can. J. Reome states that what he has a problem with is that he does not work out of the house, he uses his cell phone and truck. G. Dake states that he understands that - his previous comment stands. The quickest and easiest way to get this solved is to make the application. G. Dake states that he had this conversation with G. McKenna, before we re-wrote the zoning one of the things we had talked about was the dilemma of people who work from a vehicle whether you are a delivery person, tow truck driver, etc. You work from your vehicle and that is what you drive to and from work, but you are not actually doing anything at the house. That was never really addressed specifically with the zoning rewrite, however when we went to the Type 1 and Type 2 Home Occupations that was one of the types of things that could be a factor - if it is not generating any traffic or it is. This application, because it involves coming and going, G. McKenna interpreted that it would be a Type 2 Home Occupation and then it is up to the Planning Board to make a decision. J. Cross told G. Dake that the neighbors are not unhappy. G. Dake states that J. Reome should bring in the application, get on an agenda and get rolling that way. Until there is an application, this Board cannot do anything. The next meeting is February 24<sup>th</sup> and if he gets the application in by the end of this week we can put him on the agenda. J. Reome states that he does not tow to the residence, he does not want a junk yard, he wants to live in a clean community and does not understand why he is having problems. M. Thraikill asks what the location is. J. Reome explains and states that the trucks cannot be seen from the road, he takes the vehicles to the locations requested by the customer and does not want a junkyard. M. Thraikill asks if we can schedule a public hearing now. G. Dake states that we cannot, we need to have the application prior to scheduling it. J. Reome thanks the Board for their time; states that the man who is complaining is not a resident of Greenfield; and that he (J. Reome) now does AAA and someone is getting

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upset about that. Discussion takes place about the differences between Type 1 and Type 2 Home Occupations. G. McKenna states that until this current zoning, the towing business was prohibited – it generates more traffic, bigger trucks, etc. J. Streit asks if we are building a higher bar for this applicant by classifying him as a Type 2. G. Dake states not really, it involves review by this Board instead of just G. McKenna, it is kind of G. McKenna's call if he bumps it up to a Type 2. The only difference is that the Planning Board sees it instead of just G. McKenna and when in doubt it is probably better to go the route of giving the neighbors the opportunity to comment, therefore if they choose not to comment and complain later, we can say that we had the public hearing and went through the review process. B. Duffney states that J. Reome's trucks are smaller – like a 1-ton pick up truck. G. McKenna states that there were two complaints – one the non-resident and a neighbor. T. Yasenchak states that there is a difference with a business where the truck goes out in the morning and is gone all day, and someone who comes and goes all day.

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**CHRISTOPHER AND GERARD CHWAZ**

The Board is in receipt of a letter from DOT requesting additional information from the applicant regarding the traffic study.

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**LORNA DUPOUY**

L. Dupouy states that she presented a PUD plan to the Town Board, nothing different than what J. Peacock has at the Wayside Inn, and was told that she was requesting too many things and suggested that she try to just do a little thing right now and ask for a special use permit in addition to what she is doing. She asks what the Planning Board's feeling would be if she asked for a Bed and Breakfast so that she can have weddings, a seasonal tea room and special events. G. Dake states that he feels that the applicant would be better off getting a PUD, without going through the book for a definition of what the business would be and determining where to begin. He and G. McKenna are saying PUD. L. Dupouy states that the first time she was told to write down everything that she thought she possibly could think of even if she was not going to get to it for 15 years. She did that and then was told she had too much and what was she thinking? She was told that this would be more intense than the SEQRA for Polo. She explained that she would not be doing it all at once, she might not get to all of it. G. Dake states that his advice would be to come in to the Planning Board for an official recommendation to the Town Board, so that it is officially on the record, that she, the applicant, go to the Town Board for a PUD. With the divergent uses that the applicant is talking about and the ones that are not contemplated in the Code, it is certainly going to make everyone's life easier if she spells out sizes, scope, etc. T. Yasenchak thinks that part of the difference with the Wayside Inn is that some of what L. Dupouy wants to do is outside of the main building. M. Thraikill states that she could ask for some things and then come back later to change it. G. Dake suggests getting established with a 5-year plan and then coming back once everything is rolling to expand. T. Yasenchak states that L. Dupouy should be specific or give a range or maximum of some of the items she wants to do. G. Dake states that the Board has to write it for the property and not the applicant because if the applicant sells and moves away, the PUD is there.

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Meeting adjourned 7:28 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland  
Secretary