

TOWN OF GREENFIELD

PLANNING BOARD

FEBRUARY 24, 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, Michael Ginley, Thomas Siragusa and Nathan Duffney, Alternate. Lorna Dupouy, John Streit, Michael Thraikill, and Tonya Yasenchak are absent. Gerry McKenna, Zoning Administrator and Charlie Baker, Town Engineer, are present

FEBRUARY 10, 2009 MINUTES

MOTION: M. Ginley

SECOND: B. Duffney

RESOLVED, that the Planning Board waives the reading of and accepts the minutes of February 10, 2009, as submitted.

VOTE: Ayes: Dake, Duffney, Ginley, Siragusa

Noes: None

Absent: Dupouy, Streit, Thraikill, Yasenchak

PLANNING BOARD CASES

JOHN REOME – Special Use Permit

South Greenfield Road

John Reome and Jeanette Cross are present. G. Dake reviews G. McKenna's notes and states that the property is in the MDR-1 district. MDR-1 does not allow a Type 2 Home Occupation, however within the area tables, and G. Dake does not know why there is this contradiction, if it were allowed it would require 3 acres. This property is less than 1 acre. The property owner is listed as Harold Weinstein who would have to be a party to the application as well. G. Dake states that per G. McKenna's interpretation, the Planning Board, even if they want to, are not empowered to grant a Type 2 Home Occupation, as it is not allowed in that zone.

(L. Dupouy arrives at 7:04 p.m.)

G. Dake states that he wishes he had had that interpretation at the last meeting, as he would not have asked the applicant to come back. He states that the avenue to go, as the applicant does not meet a zoning classification, this Board is powerless. J. Reome asks how about a petition from the people who live on the street? G. Dake states that does not help this Board at all, the Zoning Board is the one who can make a change if someone does not meet the zoning. J. Reome states that he does not operate out of his house. He operates a 24-hour towing service out of his truck. He states that there is no business run out of the home, it is all out of his truck and by his cell phone. He does not understand why he cannot park his trucks in his yard. G. Dake states that he would have that same interpretation, but neither J. Reome nor G. Dake are the Zoning Officer for this Town. It is G. McKenna's interpretation that what he is doing is a home occupation. The applicant can go to the Zoning Board and ask them to change G. McKenna's interpretation. The Zoning Board of Appeals job is to, when someone does not like the answer that G. McKenna has, basically review

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the code and give an interpretation. This Board does not have the power to do that. Paul Abraham asks if someone has a plumbing business they cannot have their vehicle parked in their driveway? G. Dake states that it would be G. McKenna's interpretation but it could be a Type 1 Home Occupation, which would be allowed. G. McKenna states that it is a little different when you are talking normal vehicle. Here it is a one-ton and a flatbed. G. Dake states that the ZBA can overturn G. McKenna's interpretation. J. Cross asks who to go to for ethics. G. Dake suggests speaking with the Town Clerk and she would be the one to direct the complaint to the Ethics Board. J. Cross asks about contacting Dick Rowland. G. Dake reiterates contacting the Town Clerk or D. Rowland. J. Cross states that she had a message on her home answering machine that was not related to J. Reome's business – January 26th, the message was from Officer Wayand stating that he had received a call from G. McKenna stating that J. Reome was in violation. Another on February 2nd, the day that J. Reome got removed from the State Troopers' call list because G. McKenna said that J. Reome was in violation. She states that you can interpret the zoning rules in many different ways and that J. Reome's business is not out of their home, it is out of his truck and she was told that there is no law in NY stating that you cannot park a vehicle under 28,000 lbs. in your driveway. She states that she has a license to drive one of those trucks and asks if she is being told that she cannot bring her truck home. There are rigs that park all over Greenfield. G. Dake states that he does not disagree with J. Cross, the group that provides that relief is the Zoning Board of Appeals. J. Cross asks if that will cost another \$100. G. Dake states that if this had been in another zone this Board would be able to do this. J. Cross asks why it is ok for some and not others. G. Dake states that the others are not in front of this Board this evening. J. Cross states that there are other businesses with vehicles parked on their properties. She states that there are at least 50 properties with trucks parked in their yards with names on them, and asks that that does not mean that they have a business out of their house. G. Dake states that it does not. J. Cross asks what the main problem is – the trucks in the yard or the home occupation. G. Dake states that the Code Enforcement Officer's interpretation is that J. Reome is running his business out of that residence and that is a violation of the Zoning Ordinance. J. Reome states that then he is being told that he cannot sleep there, even though he sleeps in his truck 99.9% of the time – he lives in his truck. He questions that if he lays his head on the pillow he has a home occupation. G. Dake states that he is sympathetic but this Board cannot remedy the situation. J. Reome asks how he is in violation. He parks his trucks there; his cell phone rings - the phone does not ring in the house for him; he operates his business off his cell phone which is a 24-hour service. He states that apparently the Town does not want him here, someone does not want him here and he asks who the complaint is from. He asks if it is from a resident or a neighbor, and says that it is not. J. Cross states that when they were here before she thinks that it was stated that it shouldn't be a problem as long as it doesn't cause a traffic issue. She states that they have that pretty much covered because they have every name of the people who live on South Greenfield Road, Wing Road, Dunham Pond Road, everywhere around them. She states that they have lived here all their lives and they know just about everybody who lives here. No one has a problem, why does the Zoning Board have a problem. G. Dake states that the Zoning Board does not necessarily have a problem. It is an interpretation that the Zoning Board can say that the applicant is right. J. Reome asks what the Town wants him to do – move out of Greenfield? G. Dake states that this Board cannot help the applicant. He would be happy to refund the application fee because the applicant needs to be at the Zoning Board and he will take responsibility for this because he did not realize. J. Reome states that he is not like that, he did it to be up front and he does not want anything back. All he wants is the Town's word that they are not going to kick him out of Town, he is not going to get another \$10,000 fine where he lost his property on Wing Road over this whole deal, a \$10,000 threat. G. Dake states that he cannot promise anything. J. Cross states that she has another issue – how much money J. Reome has lost by not being able to take State Trooper calls because G. McKenna called the State Troopers. G. McKenna reiterates that he did not call the State Troopers; he does not go out of his way to call people and did not even know that was their routine. G. Dake states that if the applicant believes that someone has acted unethically, they should bring it to the attention of the Town Board and they will take action on that and do an investigation. If the applicant wants to appeal G. McKenna's determination that the applicant is acting illegally, they have every right to get on the Zoning Board's agenda and should, because they are the board that can take the interpretation and overrule it. G. Dake reiterates that this Board is not empowered by law to do this for the applicant tonight. J. Reome asks if he can operate out of 443 Maple Avenue. G. Dake states that is a different zone and does not know. If that

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was in the MDR-1 zone, G. McKenna would probably have the same interpretation. J. Reome states that he does not want to have to get out of bed and drive across town to Maple Avenue because then he is only making people wait longer. G. Dake checks the code book for the OR zone and states that this is not an allowed use in OR as a home occupation. J. Reome asks if he is being told that Saratoga Masonry is operating out of a home use. G. Dake states that retail operations are allowed, manufacturing, etc. Home occupation is not. J. Cross states that they have a storage lot in Corinth and if they use that as the address, can they bring the trucks home? G. Dake states that is an interesting question and the applicant's easiest path, he suggests calling someone on the ZBA and he cannot speak for them, the easier path may be to take the position that he is not running a business from the home, that he happens to have his vehicles at home and there are plenty of people like that in this town who have no permit and need no permit. J. Reome asks why he can't park his trucks in his yard, they are under 28,000 lbs. G. Dake states that the Planning Board can't fix that. J. Reome states that he is not trying to be hard, he came here with a sensible mind and he is not screaming and yelling like he did a few weeks ago and he is sorry for that. He was very disrespectful and he apologizes. He states that all he needs is the help to tell him what he can do to make this whole situation better. G. Dake states that J. Reome should get on the agenda for the ZBA, explain what is going on and his position that he does not work out of that home and ask them for an interpretation. J. Reome states that he has been here 9 years, he has never had a problem, he operated the garbage business off of his cell phone and never had anyone complain about him operating the garbage business out of there and all he did was lay his head there. G. Dake states that J. Reome and his family have been in this Town for a very long time, they have been doing business in this Town for a long time and he does not think that anyone is trying to run him out of town. All the Boards in this town and the Building Department try to balance the rights of one person to do what they want with the rights of the people who live around them to live in peace and tranquility. We just try to make a balance and he is sure that is what G. McKenna is trying to do – do his job. J. Reome states that he understands that.

DISCUSSION

Councilman Dan Cochran is present and reviews for the Planning Board the report to the Town Council from the Wind Power Committee. He states that it is too bad that T. Yasenchak is not here tonight as she enjoyed the 6 or 8 months of work on this report. He states that we have an opportunity right now, G. McKenna has jumped in with some code changes, and earlier this year the Town Board looked at some corrections. We want to take the opportunity at this code change period to put some language in the code dealing with wind towers and so forth. He invites the Board, in the next month or two, if there is something in the code that could use some tweaking, now is the time to do it. In August 2008 the Town Board requested that a committee be convened dealing with wind power. They took a look at the wind power situation to evaluate the impact and feasibility of perhaps a large wind power company installing turbines in the Town of Greenfield. Airtricity came to the Town 2 or 3 years ago with a project. The Town Council realized that they needed some code language to address wind power, not only for the large companies but also for the individuals who might want to put a wind tower in their yard. In addition, the Committee took the time to talk about the Right-to-farm law which has been adopted by Saratoga County legislation and it is a pretty good law. They also revisited the current law relating to outdoor wood burning furnaces, which was an important question to those who did not have the 5-acre minimum. The Committee visited Martinsburg, NY where they saw about 195 wind towers, it is pretty impressive if you have never seen a big wind farm. He believes that Airtricity was talking about 25 to 30 towers. In Martinsburg there are three neighboring townships who each realized about \$1-million in revenue each year from the generation of the power. The Committee visited the meteorological tower above Lake Desolation. A public hearing was held in November relating this and it was a good public hearing. Everyone contributed, everyone had real good answers and some interesting things came out. D. Cochran states that the document they prepared will be on-line shortly. Regarding the Right-to-Farm law, what is interesting about it is that if a real estate agent sells any land in the Town and there are local neighborhood farm activities, by law, they are required to tell the people buying the house that there is a farm. It is also incumbent upon the farmer to use good practices. So if you buy a house

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and there is a hog farm next door that is not kept up as it should be, the homeowner has the ability to bring it before the Town to mitigate those types of things. On the outdoor wood burning furnaces, and B. Duffney was a lot of help with this, the committee struggled with how to deal with this. B. Duffney and others said that the manufacturers have different ways to deal with stack heights. What the committee came up with after researching the manufacturers' suggestions is that if you have one acre, as long as your stack height is 2' above the eave of your neighbor, it is pretty much going to be like a chimney anywhere else in Town. G. Dake asks what the next step will be. D. Cochran states that the report has been presented to the Town Board and step 2 was to come in to talk with the Planning Board. G. Dake states that anytime there is a change in legislation, the Town Board has to have a public hearing. He asks the Planning Board members to read this closely and take a look at if there are wording issues that may be of concern, policy issues, etc. As we have seen tonight, some of the interpretations, if there is anything that might be a problem down the road of 'that is not what we meant,' now is the best time to address those issues. D. Cochran states that the Board can feel free to e-mail or call him. Chuck Arnold asks what this is about. D. Cochran explains that the Right-to-Farm law is legislation that kind of helps the Committee to allow farms in the community to keep going. C. Arnold asks why no one contacted him. D. Cochran states that the public hearing was advertised and that there will be other opportunities to comment on this. B. Duffney states that this is to help protect people like C. Arnold. J. Reome questions that if someone built a house next to C. Arnold's farm and C. Arnold was spreading manure, and the Town had a complaint, is C. Arnold going to have a problem. D. Cochran states no, if C. Arnold is using sound farm practices, then it shouldn't be an issue and he doesn't even see it going that far. Jami Kenison asks how small we are talking about the wind towers. She states that they moved here because of the beauty and pristine nature of Greenfield and does not want to see the view shed ruined. D. Cochran states that they are now proposed up above Lake Desolation, it is very isolated up there. That is where any big wind farms are. The Town Board recognizes that they do not want to preclude a private owner from having a 200'-plus tower as long as everything is observed. The process would be that someone would have to come before this Board, have a public hearing, there is going to be a SEQRA, etc. It will have to meet the requirements. T. Siragusa asks if Airtricity was present at the November public hearing. D. Cochran states that the Town has heard nothing from them. Supervisor Rowland has tried on 2 or 3 occasions to contact them. Airtricity doesn't actually exist anymore, per se. They are still around somewhere as they have contacted local landowners from around the site regarding leasing of property.

Rose Anderson-Gips, Skidmore student, is present and states that for her senior research project, along with a classmate, they are doing a study of the role of planning boards in managing development in the Saratoga Lake Watershed. A survey is distributed, she asks if the members would be willing to fill it out and that would be greatly appreciated.

Meeting adjourned 7:37 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland
Secretary