

TOWN OF GREENFIELD

PLANNING BOARD

JANUARY 27, 2009

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: Lorna Dupouy, Michael Ginley, Thomas Siragusa, John Streit, Michael Thrailkill, Tonya Yasenchak and Nathan Duffney, Alternate. Gary Dake is absent. Gerry McKenna, Zoning Administrator and Charlie Baker, Town Engineer, are present.

JANUARY 13, 2009 MINUTES

MOTION: M. Thrailkill

SECOND: T. Siragusa

RESOLVED, that the Planning Board waives the reading of and accepts the minutes of January 13, 2009, with the following correction:

CHWAZ – ‘Mike Kennedy’ should be corrected to ‘Mike **Keegan**’

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

Noes: None

Absent: Dake

RONALD MOREHOUSE – Special Use Permit

Old State Road

No one is present for this application. A public hearing is opened at 7:01 p.m. There being no comments, this public hearing is closed at 7:02 p.m.

T. Yasenchak reviews that the applicant is seeking a special use permit to replace a mobile home with a newer home. The applicant has received area variances.

RESOLUTION – R. Morehouse, Special Use Permit

MOTION: J. Streit

SECOND: T. Siragusa

RESOLVED, that the Town of Greenfield Planning Board grants a permanent Special Use Permit to Ronald Morehouse to replace a mobile home on property located at 14 Old State Road, TM#164.08-2-7.13.

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

Noes: None

Absent: Dake

DISCUSSION

T. Yasenchak states that G. Dake has asked for the Board to discuss an application that we have in front of us from Mr. Mahay for property off of Lake Desolation Road. We have correspondence from Mike Hill regarding this project. The applicant wanted to develop the property and does not have direct access to

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it except over a driveway easement. M. Ginley asks where this application stands before the Board. R. Rowland states that when the applicant was before the Planning Board he was asked for some more specific information, as he did not have a definite business plan. L. Dupouy states that the applicant had a 'vision' of what he wanted. R. Rowland states that M. Thraikill had suggested the applicant come in with a more concise business plan. We then received the letter from the neighbor stating that the applicant did not have a commercial easement and we sent it to the Town Attorney for his input. M. Ginley questions that the letter regarding the easement came from the party who granted the easement. R. Rowland states that in her conversation with G. Dake, he was looking for comments or questions from the Planning Board and then we can discuss it more and send the Town Attorney a letter with follow up questions if necessary. M. Ginley states that his suggestion would be to find out if the applicant is still serious about going forward. We haven't heard from them and he heard G. McKenna saying that the property is for sale. J. Streit states that his impression from reading the memo from M. Hill is that he is inferring that the 'grantors intended to limit' and he does not think that you can interpret anything as to what the grantors meaning was. You cannot retrofit an agreement to find out what they were thinking of at the time. It probably was a poorly worded thing and that is the problem with the people who worded it. He does not know if there is a distinction between a private and public easement in law. T. Yasenchak states that it does say that there is a provision for automatic termination if the applicant subdivides the parcel. J. Streit states that he is not subdividing. T. Yasenchak states that her interpretation would be that it infers increase in density. J. Streit states that then you are trying to imagine what they were thinking at the time. If they were concerned about increased density they should have been specific about that. You cannot assume that's what they were thinking or that is what they meant if they did not write it properly. M. Ginley states that he thinks that it was written improperly. Usually you put in there ingress and egress and that is what normally an easement is for - just so that you can get in and out to get to your house. If it was meant to be something more than that they should have been more specific in the wording. L. Dupouy states that M. Hill's memo states that there appears to be one word in the agreement for which an intent to allow commercial use might be inferred - licensees. That word suggests that the applicant might have the right to allow others to use the easement. The memo states that in summary the easement neither explicitly allows or prohibits commercial uses. L. Dupouy states that it would go back to how much does the applicant want to pursue a suit to make their dreams a reality. M. Thraikill asks how much pull the Board has, isn't this a legal question? M. Ginley states that he would think that if the applicant pushed forward and tried to get this granted then the neighbor would bring a lawsuit to try to bring an injunction to stop it to have the Court interpret what it meant. As far as the 'licensees' thing, he states that is kind of the boilerplate language you put in - 'invitees and licensees'. It could be something like if they built a house and rented it out, that could be a licensee or renter. He thinks that the Planning Board should not have to make a decision; it should be between the parties to resolve it. T. Yasenchak states that M. Hill concludes that he has interpreted this the best he could but that the onus should be on the applicant to get that specific agreement defined by the people he has the easement from. M. Ginley states that if it was the applicant's understanding, because he stated before the Board that it was his understanding that it was ok to do what he wanted, he was obviously mistaken and has to work that out with the neighbor. J. Streit states that he wasn't necessarily mistaken, he may not have known what they intended or maybe they did suggest it. T. Siragusa states that there is a lot of language in M. Hill's memo that says regarding what the intent might have been, but there is a clear statement in the first paragraph on page 2 that 'it is the intention of the grantees to construct a home on their property...' If that was their intention to live there, then that is as far as this easement language goes. He would not say that there is room for mistakes there. It is not the attorney interpreting; it is the statement in the document. J. Streit states that it does not state that they do not intend to do anything else. T. Yasenchak states that the memo also refers to the easement language stating that the 'Easement shall be useable by vehicles necessary to construct and maintain a home'. Obviously it doesn't say that they couldn't do anything else. The flexibility is subjective to the person who wants to either limit the access or use the access. M. Thraikill states that it might come down to a judge deciding one way or another if they can't work it out. T. Siragusa states that he would like to see the Board not act until that is settled and push it in either direction. J. Streit states that the minutes should disclose that we have discussed it, several interpretations were exhibited and no definitive position was taken pending action of the applicant. T. Siragusa states that we have a letter from the grantor saying that this was not their

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intention. J. Streit states that they should have put whatever they did not want to happen in the document. T. Yasenchak states that it mentions home several times, we need to put the onus back on the applicant, but when it continues to say home and if the neighbor is trying to be nice and let them build their home, you are not thinking of all the things that the neighbor might come up with afterwards. Discussion takes place that there is no house there now. T. Yasenchak states that we should ask the applicant to come back. L. Dupouy states that the applicant hasn't done his part to go any further and hasn't come back to the Board. R. Rowland states that the applicant was sent a letter stating that he would not be put back on an agenda until the question of the easement was resolved.

JOHN REOME

John Reome and Jeannette Cross are present. J. Reome states that he was grandfathered in a year ago and is now being told that he cannot conduct his business and he wants to know why. G. McKenna asks J. Reome how he thinks he is grandfathered in when he wasn't there. J. Reome states that he was at the Board meeting and was grandfathered in. T. Yasenchak questions that that was the public hearing discussing the zoning changes that were about to take place. J. Reome states that he got a letter from the Town of Greenfield stating that he cannot conduct his business from his truck and cell phone. M. Thrailkill asks what J. Reome does. J. Reome states towing and recovery. He does not store or tow vehicles to his yard and somehow the State Police got wind tonight that the Town of Greenfield is telling him that he cannot operate out of there. He states that he has been a resident in the Town of Greenfield for 49 years, his whole life. They pay taxes on 5 properties in the town. He does not understand why he cannot conduct business in the Town of Greenfield. He would like the Board to discuss it and see what is right or wrong, because right now he does not feel good about the Town of Greenfield. M. Thrailkill questions that there is something in place before the Board. J. Reome states that they have an injunction against him to operate his business. He states that a resident of the Town of Milton complained about his operating in the Town of Greenfield because he 'pried' on the complainant's business because J. Reome does AAA and no one less in the Town does. He takes the vehicles where the owners want them. He states that he has a list of people on South Greenfield Road who operate a business and he questions if they have licenses to operate – he does. He went to the County and provided everything that he should provide. He reiterates that he was grandfathered in, he ran a garbage business. M. Ginley questions who sent the letter. G. McKenna states that he did. M. Ginley states that is not this Board. This Board knows nothing about this. M. Ginley states that J. Reome needs to make an application to the Town to see if he can be grandfathered in. J. Reome says no, that he was grandfathered in and mentions that the person who bought Chandler's property was grandfathered. M. Ginley asked if that person came before the Planning Board and got grandfathered in. J. Reome questions who is calling the State Police and telling them that he cannot operate here. M. Ginley states that the Planning Board needs more information. J. Reome indicates that G. McKenna called the State Troopers: that he had spoken with G. McKenna, Officer Wayand, and Mr. Rowland, who said that there should be no problem because he looked at the paperwork and that J. Reome is grandfathered in. G. McKenna states that he did not call the State Police, that the officer called. G. McKenna states that the officer's question was whether J. Reome is in violation and G. McKenna told him that J. Reome is. J. Reome reiterates that he is grandfathered and states that he has operated in Town for years. G. McKenna states that this is not the forum for it, but that J. Reome is not grandfathered in. Jeannette Cross states that where J. Reome parks his truck is her residence, not J. Reome's. He parks his truck there, there are no calls coming in to her house, it is completely off of J. Reome's cell phone and his time. When J. Reome comes to her house it is his own special time. He did put her address on his DBA license because he had to give a specific place where he could be reached. G. McKenna states that he understands that. J. Reome states that he was kicked off of 75 Wing Road and that cost him a lot of money. T. Yasenchak states that what the Planning Board is saying is that for the Planning Board to look at the situation we need all the paperwork so that we can understand what is going on. G. McKenna states that the Planning Board cannot look at the situation because it is not before the Planning Board. J. Reome states that he talked to Mr. Rowland who told him, 'John, there is not a problem'. G. McKenna states that he spoke to Dick Rowland and that is not what he told G. McKenna. T. Yasenchak

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states that J. Reome needs to talk to D. Rowland and G. McKenna together so that everyone can have an understanding of what the next step needs to be. The Planning Board cannot act without an application, we can understand and sympathize, but until there is an application before the Board they cannot act. J. Reome states that the gentleman who turned him in does not reside here, he may pay taxes here for a junkyard that is unlicensed or was unlicensed. J. Streit states that this Board has been traditionally in favor of allowing business, as long as it does not interfere with neighbors. J. Reome states that he has no complaints from South Greenfield Road, everybody loves him to death. He takes care of J. Cross' property, the landlord's property. He states that he owns the home that J. Cross lives in, she rents the property; the landlord loves him to death, the other landlord loved him to death. He took care of it, he took care of plowing, and he took care of all the excavating. He states it is beautiful property, it is prime property. J. Streit states that he has no argument from the Planning Board. T. Yasenchak reiterates that J. Reome needs to speak to D. Rowland and G. McKenna and determine who he needs to talk to next, which Board that is, and if it is the Planning Board at some point, then the Planning Board will be able to comment appropriately because we will have all the paperwork, maps and so forth.

Meeting adjourned 7:26 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland
Secretary