

INITIALS \_\_\_\_\_

## **LUNENBURG PLANNING BOARD TOWN OF LUNENBURG**

Emerick R. Bakaysa, Chair  
Joanna L. Bilotta-Simeone, Vice-Chair  
Thomas W. Bodkin, Jr., Clk.  
Nathan J. Lockwood, Mbr.  
Marion M. Benson, Planning Director



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Minutes  
Public Hearing (continuation)  
35 Leominster Road  
March 23, 2013

Meeting Posted: Yes  
Place: Town Hall, 17 Main Street, Lunenburg, MA 01462  
Time: 3:05 PM

Present: Emerick R. Bakaysa, Joanna L. Bilotta-Simeone, Nathan J. Lockwood, Marion M. Benson

Chair opened the Public Hearing continuation for review of Draft Findings and Directives for a Special Permit under Section 4.2., Subsection 4.2.3.4. of the Protective Bylaw of the Town of Lunenburg. The Special Permit is for 35 Leominster Road for a saw mill operation and workshop. Owner is Lunenburg Realty, 12 Brook Street, Wellesley, MA 02482. Applicant is Brian Brown, 35 Leominster Road, Lunenburg, MA 01462.

Mr. Bodkin Jr. recused himself from the Hearing.

As the Findings are in draft format, they were not read into record. Board reviewed draft Findings and found them to be complete.

Christine Higdon, 83 Lancaster Avenue- did not hear a Finding noting that some abutters felt the Special Permit should not be issued. Only heard a Finding noting abutters' requests for restrictions to the Special Permit. Feels the Special Permit should not be considered. Mr. Bakaysa noted Findings will be revised to note that some abutters felt the Special Permit should not be issued. He also noted that a sawmill operation can be permitted under the Zoning Bylaw, but the Board is not obligated to issue one.

Mr. Bakaysa noted a letter presented at this continuation; *"We, the undersigned, are opposed to increasing and expanding the existing business of Brian Brown, 35 Leominster Rd. We are very concerned about significant increases in noise, dust, odor, possible carcinogens, air pollution, truck traffic and safety issues, and the disruption caused to a dense residential neighborhood. We are also very concerned about the serious impact to the historic district and the valuation of abutting properties. We believe that there are sufficient reasons NOT to grant a special permit for a sawmill."*

The above letter contained 13 signatures.

Mr. Bakaysa read draft Directives into record.

1. The Applicant shall follow the Directives stated in the Lunenburg Zoning Bylaw, Section 4.2.3. Uses Permissible by Special Permit Granted by the Planning Board, Sub-Section 4.2.3.4. noting sawmills are permissible by Special Permit.
  - a) *Vehicles and equipment in connection with the use are parked behind the setbacks.*
  - b) *Buffer are provided for the storage of materials and equipment and related to above uses and located to limit adverse impact on adjacent properties.*
  - c) *In addition to the conditions of Section 6.5. Signs, and Section 6.6. Performance Standards, the hours of operation, decibel levels, signs may be further conditions of the permit.*

2. The Applicant shall follow the conditions for a Special Permit designated by the Lunenburg Fire Chief according to the Fire Safety Code relating to Forest Products, Regulation 527CMR as follows:
  - a) *A permit to operate from the Fire Department.*
  - b) *All weather access to be maintained for Fire Apparatus to and from sawmill and barn.*
  - c) *Surface shall be durable and not subject to unsafe land conditions. Asphalt, graded base or similar solid material shall be used. Said surfaces shall be maintained to allow fire apparatus to turn around in yard or field.*
  - d) *No yard storage of raw materials or finished product. All materials to be stored within barn.*
  - e) *Storage of waste materials (bark, sawdust, etc. for use in composting only shall be allowed). Said storage shall not exceed 300 yards. Storage shall be neat and orderly. If piled, pile shall have minimum 23 ft. clearance from structures or nearby combustible material.*
  - f) *Current accumulations of waste materials to be removed. No more than six (6) months to remove current waste materials.*
  - g) *General area to be kept free from weeds, grass, etc., especially around structures or waste storage area.*
  - h) *No smoking in sawmill or barn area.*
  - i) *No burning on site.*
  - j) *Sawmill, barn and associated structures shall be equipped with suitable fire extinguishers in accordance with NEPA 10. This shall be based on sizes shown on plan, minimum 1-4A rated extinguisher in each building.*
  - k) *Suitable notification method for emergencies regarding sawmill.*
  - l) *A working cell phone with adequate signal in possession of the sawmill operator shall be required.*
  - m) *Recommendation of a monitored fire alarm system and/or automatic sprinklers for the structure in question.*
3. The Applicant shall prove by written notation to the Zoning Officer that all uses shall be in conformance with Regulation 310 CMR 6.00-7.00 of the Department of Environmental Quality Engineering, Commonwealth of Massachusetts.
4. The Applicant shall prove by written notation to the Zoning Officer that the equipment and instruments will not cause sound, noise, vibration, odor or flashing instruments of more than 80 decibels at 200 feet from the boundaries of the premises.
5. The Applicant shall prove by written notation to the Zoning Officer that business conducted on site will not exceed the established value for odor as outlined in T. M. Hellman F. H. Small, Journal Air Pollution Control Association.
6. The Applicant shall be consistent with the directives in Zoning Bylaw Sub-Section 4.2.3.4 a); all materials, supplies, and equipment shall be stored behind the set back line, be consistent with regulations set forth by the Fire Department and be screened in reasonable fashion from public ways and abutting properties.
7. The Applicant shall provide by written notice to the Zoning Office and the Fire Department, a schedule of trash and debris removal to satisfy the appearance of sightliness relative to the neighborhood and the value of preservation according to a Historic Design District. The Zoning Officer will monitor the following on a periodic timeline of a monthly basis.
  - A. Piles of unsightly rubbish piles shall be contained and removed.
  - B. Any outside drying of lumber shall be assembled in an orderly fashion.
  - C. All necessary equipment shall be placed on property to reflect limited adverse impact on adjacent properties.
8. The Applicant shall complete construction of barn to house necessary equipment and product by October 31, 2013 as noted in Applicant's letter of commitment dated February 27, 2013.
9. The Applicant shall regulate traffic in and out of the site by determining and identifying the access and design of the driveway to the Zoning Officer and the Fire Department.
  - A. There shall be no parking of any type of vehicles on Leominster Road.
10. The Applicant shall operate the sawmill only during the hours of 9:00 AM to 5:00 PM, Monday through Friday.
  - A. No operation of sawmill will be conducted on holidays.
  - B. No operation of sawmill shall exceed -----hours per year.
11. The Applicant shall follow the Zoning Sign Bylaw Section 6.5, Sub-Section 6.5.1.2 a) 3.
  - a) *One sign for identification of professional and home occupation not exceeding a total area of three (3) square feet.*
12. The Applicant shall be cognizance that the attached Special Permit is granted to the Applicant and shall not run with the site or land.

13. The Applicant shall not make any changes or performance to the attached Special Permit without submitting to the Planning Board for an amendment to this Permit.
14. The Applicant shall adhere to the above Directives; if not, this Special Permit as declared by the Building Official, will be revoked.

Ms. Bilotta-Simeone noted to the audience that 90% of what Mr. Brown does falls under his Home Occupation. Even if the sawmill operation is not permitted, 90% of what is there will remain. If a Special Permit is put in place, this will give the Building Official/Zoning Officer enforcement authority.

The Board discussed the draft Directives with the following comments:

Ms. Bilotta-Simeone- f) six months is too long.

Mr. Lockwood- e) 300 yards – is this cubic yards? Yes. Attorney Winner suggested a more specific Directive as to height and depth of said storage (concerned with fire).

Ms. Bilotta-Simeone- add 15. Stating that within 30 days of the granting of this Special Permit, the yard will be cleaned up. Mr. Bakaysa noted need to be specific – what does “clean” mean?

Mr. Lockwood- 7.B. – note that this is while barn being built – once built, lumber will be moved into barn.

Ms. Benson- 10.B. – Mr. Brown noted he would need 350 hours/year. Board needs to determine how to set limits – yearly, monthly, weekly?

Mr. Bakaysa asked for Attorney Winner's input. Attorney Winner inquired as to how Board will oversee. Board noted Mr. Brown will provide documentation to Building Official. The sawmill has a counter on it. Building Official can validate counter.

Mr. Lockwood- 350 hours/year is too much given his historic usage. 240 should be sufficient.

Ms. Benson inquired of Counsel if conditions can be imposed that undermine the operation. Attorney Winner – yes, but Mr. Brown can appeal and challenge as an unreasonable condition.

Mr. Bakaysa feels this is an accessory use to the Home Occupation (will be noted in Directives) and should be limited to number of hours required for him to conduct his Home Occupation of manufacture of furniture.

Board consensus was for 200 hours/year. Also change hours of operation from 9 to 3.

Add Directive that states there must be a mechanism that provides restricted access when not in use.

Board wanted to Change 14. to read “...cease and desist, and/or revoked”. Attorney Winner noted revoking a special permit is very problematic. It is not covered in the Zoning Act. There is no case law allowing a Planning Board to revoke a special permit. He suggested, “Any violations of this order shall be addressed by the Zoning Official through appropriate legal means”. He also noted the Board cannot negate the Permit as noted in Directive 12. Special Permits are recorded and run with the land. Put in a lapse and renewal requirement; e.g., “The permit shall lapse after two years, and is subject to renewal by the Planning Board on application of the property owner”. Mr. Bakaysa suggested Permit to be renewed annually for the first three years, and then after three years, it could be issued for a two-year period, pending feedback from the Zoning Official as to Mr. Brown's compliance with the Directives. The Board could also solicit neighborhood feedback before renewal.

Delete 12. and 14. – put in renewal clause instead.

Mr. Lockwood- 4. – noise – Ms. Benson referred to OSHA's daily permissible noise level is 8 hours a day at 90 decibels. Both Mr. Bakaysa and Mr. Lockwood want closer review. Ms. Benson referred to 6.6. Performance Standards, SubSection 6.6.3. Noise. Mr. Bakaysa wants to know most noise restriction that can be put on at the boundary line. More research needed.

An abutter requested time restriction for truck deliveries – possibly 10 to 1 – while children are in school.

Individuals listed below are in opposition. Individuals' comments are on the DVD filed in the Planning Office.

Gare Thompson, 10 Whiting Street

John Murphy, 125 Lancaster Avenue

John and Bonnie Reynolds, 91 Lancaster Avenue

Tom Alonzo, 284 Lancaster Avenue

Tom Mulholland, 2 Leominster Road

Al and June Dettenrieder, 72 Lancaster Avenue

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Mr. Bakaysa inquired of Town Counsel, within how many dates from application does the Board have to approve a special permit. Attorney Winner believes the public hearing must be held within 60 days of the application, and then the Board must issue its decision within 90 days after a hearing has closed.

Board will open hearing Monday night for purpose of giving date of continuation and then adjourn hearing.

Ms. Bilotta-Simeone, Motion to continue Hearing to March 25, 2013, 6:30 PM, Ritter Memorial Building, Second, Mr. Lockwood, all aye.

Adjourned 5:20 PM.