

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
April 8, 2013

Meeting Posted: Yes
Place: Town Hall, 17 Main Street, Lunenburg, MA 01462
Time: 7:15 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. Bakaysa read the Findings into record.

1. The Lunenburg Planning Board finds that an application for a Special Permit for a farm related use, a sawmill, was submitted to the Lunenburg Planning Board on February 12, 2013 under Protective Bylaw of the Town of Lunenburg, Section 4.2.3., Sub-Section 4.2.3.4.
2. The Lunenburg Planning Board finds the Applicant is Brian Brown. Telephone 781-431-7060.
3. The Lunenburg Planning Board finds the Applicant resides at 35 Leominster Road, Lunenburg, MA, 01462, Map 71, Parcel 39, Deed Record 6614, Page 115. Total land area is 17.65 acres.
4. The Lunenburg Planning Board finds this is a residential area and located in the Historic Design District.
5. The Lunenburg Planning Board finds that the owner is Lunenburg Realty Trust, located at 12 Brook Street, Wellesley, MA.
6. The Lunenburg Planning Board finds that Mr. Brown has been operating a saw mill operation at the above Lunenburg address for several years without a Special Permit as required under Protective Bylaw of the Town of Lunenburg, Section 4.2.3., Sub-Section 4.2.3.4.; therefore, the operation of this sawmill is out of compliance.
7. The Lunenburg Planning Board finds that the Building Official/Zoning Officer issued a Cease and Desist on March 29, 2012 until said Applicant applies for a Special Permit for use of operating a sawmill according to the Zoning Bylaw, Section 4.2.3., Sub-Section 4.2.3.4.
8. The Lunenburg Planning Board finds that the Applicant complied by submitting an application for a Special Permit to operate a sawmill under Zoning Bylaw Section 4.2.3., Section 4.2.3.4., on February 12, 2013.
9. The Lunenburg Planning Board finds that the Building Official/Zoning Officer revoked the Cease and Desist following submittal of the application as noted in correspondence dated March 5, 2013 (attached and filed in Planning Office).
10. The Lunenburg Planning Board finds that Section 4.2.3. states the following:
Uses Permissible by Special Permit Granted by the Planning Board.
Sub-Section 4.2.3.4. Farm related uses not permitted as of right in Section 4.2.1.1. or a Special Permit granted by the Planning Board or by the Board of Appeals in other sections as provided in this Bylaw, to include bee keeping, fish hatcheries, animal hospitals, sawmills, blacksmith shops, and farm implement repair shop for implements not exceeding thirty (30) horsepower, provided that:
 - A. Vehicles and equipment in connection with the use are to be parked beyond the setback line.
 - B. Buffers are provided for the storage of materials and equipment and related to above uses and located to limit adverse impacts 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, and signs may be subject to further conditions of the Special Permit.

11. The Lunenburg Planning Board finds that a Public Hearing was held on February 25, 2013. Thirty-six (36) citizens attended the Public Hearing (count was taken by signatures). The Chair asked for proponents and opponents to speak. One person spoke as a proponent and 10 persons spoke as opponents. Names and comments are recorded in the minutes of the Hearing dated February 25, 2013 (attached and filed in the Planning Office).
12. The Lunenburg Planning Board finds that the Applicant presented an existing conditions plan prepared by Cheney Engineering Co., Inc., 4 Walpole Street, Dover, MA.
13. The Lunenburg Planning Board finds that the Applicant submitted a list that noted the site presently contains a Woodmizer Sawmill, Front End Loader, Ford F 350 Truck, GMC 1500 Truck, Morbarf Chipper, 220-230 logs to be cut, 6000 board feet lumber. There are three plus (3+) unsightly piles of scrap lumber, as noted verbally by the Building Official. (The Applicant noted an interior area contains general woodworking tools and presently practicing in production of furniture and other wood specialty products via Home Occupation.)
14. The Lunenburg Planning Board finds that the access is located on 35 Leominster Road to the left side of the residential structure. The entrance is presently 15+ feet wide.
15. The Lunenburg Planning Board finds correspondence received from Fire Chief Patrick Sullivan on February 13, 2013 noting all conditions to be met according to Fire Safety Code relating to Forest Products (regulation 527CMR) (attached and filed in the Planning Office).
16. The Lunenburg Planning Board finds that the first complaint was received from a realtor on November 29, 2012. The letter was referred to the Zoning Officer who made contact with the Applicant once again regarding the unsightliness of the property.
17. The Lunenburg Planning Board finds that a signed petition from abutters was presented, requesting that restrictions be placed on any Special Permit to limit adverse impact on adjacent properties and within an aggressive timeline. The petition was received in the Planning Office on February 20, 2013 and presented at the February 25, 2013 Public Hearing (attached and filed in the Planning Office).
18. The Lunenburg Planning Board finds that a correspondence was presented by Attorney Robert B. Bowen, representing two abutters, noting that the Board is not obligated to grant the Special Permit. However, in the event that a Special Permit is granted, that it be conditioned to limit the adverse impacts on adjacent properties and the general neighborhood. Correspondence was presented at the February 25, 2013 Public Hearing (attached and filed in the Planning Office).
19. The Lunenburg Planning Board finds that letters from abutters and surrounding neighbors were received by the Board. The letters list complaints of commercial traffic, unsightliness, noise, disposal and storage of product, hours of operation, and reduction of home values. Letters are dated from January 30, 2013 through the time of the Finding's draft presentation to the Planning Board at meeting of March 4, 2013 (on file in the Planning Office).
20. The Lunenburg Planning Board finds that the abutters are requesting, through correspondences and visits to the Planning Office, that if a Special Permit is granted that strong Conditions and Directives become part of the Special Permit.
21. The Lunenburg Planning Board finds a letter dated February 27, 2013 from Lunenburg Realty LLC, Wellesley, MA, signed by J. Robert Connor and Brian Brown (Applicant), was received in the Planning Office February 28, 2013. This letter establishes a timeline of October 31, 2013 for construction of the barn. The letter does note that special finish such as handmade shakes may not be completed by the date of October 31, 2013. The letter was presented at a meeting of the Planning Board on March 4, 2013.

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 CUBIC yards. Storage shall be neat and orderly. If piled, pile shall have minimum 23 ft. clearance from structures or nearby combustible material. FIRE REGULATION ON PILES*
 - f) *Current accumulations of waste materials to be removed. No more than six (6) months to remove current waste materials. ANY TIME LINE PRIOR TO SIX MONTHS IS WELL RECEIVED BY THE CHIEF.*
 - 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 (60) decibels at 200 feet from the boundaries of the premises. CHANGE TO AT BOUNDARIES. BYLAW READ 6.6.3.2 AT THE DISTRICT BOUNDARY LINE, NOISE SHALL NOT EXCEED SIXTY (60) DECIBELS BETWEEN THE HOURS OF EIGHT (8:00 P. M. AND SIX (6:00 A. M. AND AT ALL OTHER TIMES, SHALL NOT EXCEED SIXTY (60) DECIBELS FOR MORE THAN TWENTY (20) MINUTES IN EACH HOUR. See note below.
 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. AREA SHALL BE NEAT AND HAVE AN ORDERLY ARRANGMENT OF ANY OUTSIDE PILES IN INTERIM PERIODS OF REMOVAL.
 - 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.
 - THE ABOVE DIRECTIVES SHALL BE ADDRESSED FOR NEATNESS AND ORDERLY WITHIN THIRTY (30) DAYS OF THIS PERMIT.
 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.
 - A. ALL OUTSIDE STORAGE OF EQUIPMENT AND PRODUCT SHALL BE MOVED TO BARN UPON COMPLETION.
 - B. SAWMILL SHALL HAVE RESTRICTED ACCESS WHEN NOT IN USE BY REMOVING BLADE WHICH SHALL BE PLACED IN A PROTECTIVE AREA.
 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 WHITING STREET (NORTH EAST) AND Leominster Road.
 - B. ALL TRUCK DELIVERIES SHALL BE BETWEEN 10:00 A. M. AND 1:00 P.M.

Mr. Brown noted that 9B. above would be difficult for compliance as he cannot stipulate delivery hours to delivery persons. Deliveries would be between the normal hours of 9 to 5. He noted at no time will any street traffic be blocked; deliveries will go to the rear of the house.

10. The Applicant shall operate the sawmill only during the hours of 9:00 AM to 5:00 PM, Monday through Friday. CHANGE TIME TO 9:00 A. M. TO 3:00 P.M.
 - A. No operation of sawmill will be conducted on holidays.
 - B. No operation of sawmill shall exceed TWO HUNDRED (200) hours per year. (240 HOURS WERE ALSO DISCUSSED)

Mr. Brown noted that at an in-house meeting with Ms. Benson and the Lunenburg Fire Chief, 350 hours/year were discussed. He noted he can do 300 (approximately 6 hours/week). He will probably do under 200, but cannot guarantee.

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 cognizant that the attached Special Permit is granted to the Applicant and shall not run with the site or land. DELETE PREVIOUS SENTENCE. SUBSTITUTE: THE APPLICANT SHALL SEEK RENEWAL OF THE SPECIAL PERMIT EACH YEAR FROM DATE OF APPROVAL FOR THREE YEARS. THE APPLICANT, THEREAFTER, SHALL SEEK RENEWAL EVERY TWO YEARS, PENDING FEEDBACK FROM THE ZONING OFFICIAL AS TO APPLICANT'S COMPLIANCE TO THIS SPECIAL PERMIT. (Ms. Bilotta-Simeone noted to Mr. Brown this was implemented on advice of Town Counsel.)
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. **DELETE SENTENCE -REFER TO RENEWAL DIRECTIVE.**

NOTES: IN INQUIRING ABOUT ITEMS FOR ANSWERS.

1. I FIND THAT THERE IS NO WRITTEN RULE REGARDING HEIGHT AND WIDTH OF "PILES" EXCEPT FOR FIRE DEMAND OF 23 FT FROM STRUCTURES. IT IS THE DECISION OF THE BOARD AS TO HEIGHT AND WIDTH.
2. CONCERNING STATEMENT THAT THIS PERMIT IS AN ACCESSORY USE TO HOME OCCUPATION AND LIMITED TO NUMBER OF HOURS REQUIRED FOR APPLICANT TO CONDUCT HIS HOME OCCUPATION OF MANUFACTURE OF FURNITURE; BUILDING OFFICIAL STATED THAT THERE IS NO LIMITATION ON NUMBER OF HOURS IN HOME OCCUPATION.
3. REPORTING ON HOURS OF SAWMILL USE, A WRITTEN STATEMENT (AS NOTED ABOVE) PLUS THE COUNTER ON THE SAWMILL IS SATISFACTORY TO BUILDING OFFICIAL FOR REPORTING.

Board discussion ensued as to whether the home occupation and sawmill operation were two separate uses for the property. The Building/Zoning Official had previously stated that the sawmill operation is an accessory use to the home occupation. Ms. Benson to seek clarification.

Mr. Brown not sure how reliable current counter on sawmill is, will have to install a new one. Will also maintain a log of usage.

Need Board discussion on Directive #9 and Directive #10. Board needs to clarify what is meant by sawmill "running". Is this from the moment it is turned on or when it is cutting a log? Ms. Bilotta-Simeone feels it is from the moment the sawmill is turned on. If from the moment it is turned on, Mr. Brown does not know if he would be able to comply with 200 hours/year, but would be able to with 300/year. Mr. Lockwood is of the opinion that when a log is being cut, noise level will exceed 60 decibels; Mr. Brown disagrees. Mr. Brown stated noise issue is from the Planer, not the sawmill and that once the barn is built, Planer will be moved inside.

Board discussion on Directive #10. Business 9:00 AM – 5:00 PM, but sawmill operation only 9:00 AM – 3:00 PM. Mr. Lockwood wants "sawmill operation" defined – will provide suggested wording to Ms. Benson for Directive.

Mr. Lockwood questioned Directive #7. Ms. Benson noted that in conversation with the Zoning Official, Mr. Brown will provide the Zoning Official with a monthly written report. Language will be cleaned up for Directive #7.

Mr. Lockwood inquired of Directive #8B, how safe is the sawmill when the blade is removed? Should the key also be removed?

Mr. Lockwood regarding Directive #4. Change "District Boundary Line" to "Property Boundary Line". Ms. Benson noted Zoning Bylaw states "District". Board consensus is to change to "Property Boundary Line".

Ms. Bilotta-Simeone requested if the Zoning Official and Mr. Brown could determine decibel level at property line. Mr. Brown noted he intends to comply with 6.6.3.2. of the Zoning Bylaw which states, "At the District boundary line, noise shall not exceed sixty (60) decibels between the hours of eight (8:00) p.m. and six (6:00) a.m., and, at all other times, shall not exceed sixty (60) decibels for more than twenty (20) minutes in each hour."

Mr. Brown referred to M.G.L. ch. 128, Section 1A, and that what he is doing is provided for within that Chapter.

Bob Ebersole, 94 Main Street- concerned with neighbors' right to pursue a nuisance lawsuit. Request an additional Directive stating "shall not impair the rights of any aggrieved parties to pursue any private lawsuits for nuisance". Board to consult with Town Counsel.

Rebecca Marshall-Waggett, 376 Mulpus Road- concerned with 1) noise level (could a maximum decibel level be set for the 20 minutes specified in Section 6.6.3.2. [Board will look into]) and, 2) traffic with trucks exporting product.

Tom Alonzo, 284 Lancaster Avenue- 1) decision on whether accessory use versus two uses and 2) what constitutes a working farm under M.G.L. ch. 128, Section 1A. Mr. Bakaysa noted Board/Ms. Benson will go to Building Official for clarification.

Bob Beck, 106 Houghtons Mill Road- asked for 1) clarification on decibels at boundary line and 2) what is the setback line? Ms. Benson has asked the Zoning Official for clarification on the setback line for this specific property and Zoning Official stated forty (40) feet.

A Directive will be added noting delivery truck size not to exceed thirty (30) feet. Mr. Brown noted that with his narrow drive, any delivery over sixteen (16) feet long will be unloaded in the driveway, but will not sit there any longer than 24 hours.

A Directive will be added that notes deliveries will occur behind setback line. Ms. Benson to clarify property setback under Section 5.2. with the Building Official. Directive will specify Bylaw Section that Mr. Brown must comply with.

Board discussion on Directive #9. Mr. Lockwood made Motion to change hours of truck deliveries in 9B to 9 to 5, and add in condition that delivery trucks for the sawmill will not exceed 30 feet, and loading and unloading will be under the setback requirements in the Zoning Bylaw, Second, Ms. Bilotta-Simeone. Roll Call Vote, Mr. Lockwood, aye; Ms. Bilotta-Simeone, aye; Mr. Bakaysa, aye.

Directive #10B. Change to read "No operation of sawmill shall exceed 300 hours per year."

Tom Alonzo- Are there enough Directives to enforce unsightliness? Also concerned with enforceability of Directives.

Motion, Mr. Lockwood, Second, Ms. Bilotta-Simeone to continue Hearing to Wednesday, April 24, 6:30 PM, Town Hall. Board requests Building/Zoning Official to attend.

Motion to adjourn, Ms. Bilotta-Simeone, Second, Mr. Lockwood.

Adjourned 9:30 PM.