

**TOWN OF CHESTERFIELD, NH
ZONING BOARD OF ADJUSTMENT**

**MINUTES
January 13, 2009**

Present: Chairman Burt Riendeau, Andy Cay, Harriet Davenport, Renee Fales, Alternates Jim Larkin and Lucius Evans, Selectman Bob Brockmann and Code Enforcement Officer Chet Greenwood. **Absent:** John Perkowski and Charles Reilly.

The Zoning Board of Adjustment met at the Chesterfield Town Office on January 12, 2009 at 7:30 pm. Riendeau introduced the Board and the following agenda items were heard.

1. Eric Schmidt requests a Special Exception under Article 402.4 Home Industry, to permit a Landscaping business. The property is located at 314 River Rd, W Chesterfield (Map 1 Lot B4.1) Residential zone.

Schmidt advised he has a 3 acre lot purchased in 2007. He has a small landscaping business. They had rented out the house but are now renovating the house to enable them to move in by March 1st. There is a 30 x 50 barn.

He has planted arborvitae for screening. He does not intend to put up any signage and there will be no retail sales. There is only one employee plus himself. His business includes landscaping and snow plowing.

The equipment on site is 3 work trucks, an excavator, 2 tractors, small backhoe and a maintenance trailer. He has no plans on expansion. All work is done off site.

Cleotis Miller, abutter, presented pictures from his property next door. There is a field that separates his and the Schmidt's houses. The field is owned by Schmidt. There are piles of mulch, compost pile and small piles of stone. Miller opposes the application because of the visual impact and he is concerned that there will be more employees in the summer due to the busy landscaping season. He thought it would devalue his property.

Davenport noted that with minimal screening the visual impact could be mitigated. Schmidt advised that there is screening on the other side of the mulch pile. He plans to border the field edge for screening at some point. Miller stated he likes having the open field but understands it is Schmidt's property. Article 402.4 part 3 was read noting the necessity of permanent screening any outdoor activities, equipment parking and storage. Schmidt stated he understands and intends on complying.

Darlene Conca, abutter, stated there are cars going out at 6:30 am and 3 trucks going back and forth. She suspects there are more than 2 employees. She wants to maintain the quiet residential property.

Norm Gauthier, abutter, stated there is more equipment than what Schmidt had said and this area is not zoned for a business. There is also a skidder. Schmidt stated he did have a skidder and had tried to sell it but removed it from the front yard to the rear of the property. He advised that the dirt pile would be removed from the field. Gauthier was also concerned with the burning going on. Schmidt advised this was from the ice storm clean up. Gauthier was concerned that this business would open doors to other businesses coming into the area. He noted the Cersosimo trucks on the road. His wife is also opposed.

Blake Woodman, abutter, advised he is opposed to changing the zoning and concerned with the decrease in property values.

Cay asked Schmidt if there are things he could do to address his neighbors' concerns. Schmidt advised he would complete the screening, remove the bike jump in the field and the field would remain as it is.

Schmidt asked how his business could decrease property values. Cay stated that if a property is not in the character of the neighborhood due to visual impacts, noise impacts, and smoke; these could negatively impact the neighborhood.

Schmidt was asked how many times he burns. He stated usually once a year in the winter. Gauthier stated burning was done maybe twice in the last year. Schmidt stated he could stop the burning and could chip all materials. He stated that in regard to Conca's comment that there are more than 3 employees because she has seen 3 trucks going out. He stated there are only 2 employees but sometimes he may come back to get the other truck. Most of the traffic goes south with occasional trips to the Cersosimo pit.

He advised that the skidder is used a couple times a year when he logs or does land clearing. He has a trailer to haul his equipment.

Riendeau asked Greenwood about the burning requirements. Greenwood advised there is no limit with snow cover but a permit is necessary when there is bare ground. Hauling brush in from job sites is not a typical residential use and the approval for the home business could note limitations.

Riendeau advised the audience in order to clarify a misconception that this application is changing the zoning of the area. This is not a zoning change. Home Occupations have been included in our ordinance to allow for businesses in every zone in the town due to the character of our town. This ordinance was passed at Town Meeting. He explained there are 3 levels of Home Occupations. The ordinance allows this business under Special Exception if it complies with the conditions of the ordinance.

Conca stated that there is another business down the road, RDR Construction, and he doesn't have as much equipment. Davenport stated that based on the pictures from Miller's property it seems that the visual impact could be corrected if appropriate screening were done.

Schmidt stated he is willing to work with the people. He stated that 95% of his equipment will be going inside using the existing barn and the 14 x 40 ft pole barn under construction.

Outside there would be some stock piles, the loader and the skidder. Cay asked if the stock piles could be arranged in a way as not to be an eye sore. Schmidt advised that the mulch piles could be moved out of the Miller's sight. Schmidt's intention is to replace the siding on the barn and paint it red. The pole barn siding would be allowed to naturally weather. He also could extend the hedge.

Brockmann suggested that Schmidt take the site plan and show how the changes would be done. It was noted that there would be no retail and he only hauls out of the property from the stock piles.

Schmidt stated they start at 7:30 am and have 10 hour days during the summer, generally ending at 5:30. They do not work Sundays and only ½ days on Saturday if there was a rain day during the week. They plow during the storms. There would be only one employee coming in the morning. Schmidt noted the changes on the site plan.

Cay stated that if the Special Exception were granted the Board could ask Schmidt to come back in the fall and possibly have a site visit. This would give opportunity to make sure the conditions were complied with and would give the abutters opportunity to come see the site. Schmidt stated the neighbors were welcome to come anytime.

Schmidt stated he would agree to only burn his own brush once a year during snow cover and not for a prolonged burn. He does have existing brush that will need to be burned this winter.

Fales moved to close the public portion. Davenport seconded the motion, which carried unanimously.

Fales noted that this application would need the condition of his residency. Davenport stated that the screening could be resolved.

Cay moved to grant a conditional approval. The first (1) condition is the applicant must live in the dwelling before this permit is effective and that must occur by July 1, 2009 or else he would have to come back to the Board. (2) The concerns that the neighbors have expressed regarding their view of the property, the potential impact on market value and the unsightliness of excess stockpiling of materials outside and parked vehicles. To mitigate for those concerns the conditional approval is based on a revised site plan that has been marked by the applicant (Attachment A) labeled Revised Site Plan dated today, 1/13/09.

The site provides for the stockpiling of mulch piles or loam piles to be done at the back of the property abutting up to the back woods. In the area between the pole barn and the existing large barn provides for a hedge row of arborvitae to screen those piles of stored materials from the Miller property to the north. The applicant has agreed not to burn wood cutting debris on his property other than his own cuttings. In other words, he will not truck in commercial debris that has been cut at other properties other than his own for burning purposes.

The applicant has agreed to complete the pole barn to allow for a majority of his vehicles to be parked inside. It is expected that a couple of vehicles will still remain outside and we

would encourage the applicant to park those at the back where they will be out of the view of the neighbors.

In evaluating this Special Exception we find that it is authorized under Article 2 of Section 601.3.

- A. The special exception is specifically authorized by Article II of this ordinance.*
- B. The proposed use will not be injurious or detrimental to the neighborhood.*
- C. Any special conditions required by Article II, Article III or Article V will be complied with.*
- D. The proposed use will not make an excessive demand on municipal services.*
- E. The proposed use will not generate traffic volumes that will overburden existing roads and streets.*
- F. The proposed use will not have an adverse impact on the natural environment.*

This conditional application will be effective as of the date of occupancy, any date between now and July 1, 2009. We will ask that the applicant return to this Board by mid October of this year for the November meeting agenda. It is our expectation that he will have demonstrated his compliance with the spirit and intent of these conditions. There will be an opportunity for abutters to comment on his compliance with spirit and intent.

Provided that the result of that October application review is positive, the application will be granted without conditions.

Fales seconded the motion.

Riendeau clarified that there will still be one major burn with the material now on the property but no future materials will be brought in to burn. Schmidt stated it may take 3 days to complete the burn. Miller asked if Schmidt would call them before the burn so that they will not put laundry out. Schmidt agreed.

It was also noted that the start of the permit would be when Schmidt resides on the property. Does that mean that he will not be able to run his business from now until that time? Cay stated it would be the discretion of the Code Enforcement Officer. Greenwood stated he would enforce what is permitted by the Board. Cay addressed the abutters present and asked if there were anyone that would ask Schmidt to lose his job during this time. The abutters agreed they would not. It is understood that Schmidt would continue his business as is until he resides at the property at which time the conditional permit would be in effect.

The vote was called and the motion passed unanimously. Voting members: Davenport, Cay, Fales, Larkin and Riendeau.

2. David Spaulding requests a Variance from Article 203.5 Section B, Side Setback to permit a shed 5 ft from the side property line. The property is located at 62 Maple Rd, Spofford (Map 12A Lot B3) Residential zone.

Denise Cobb was present representing the application as Spaulding was working. She stated they were concerned with placing the shed closer to the stream because when it is high it may undermine the shed. There is a steep grade just past another shed in the rear of the property. The shed for this application was put up in October. To be compliant the shed

would have to be put next to the pool. Riendeau asked why not put it next to the existing shed. Cobb stated it was mainly an access issue. She said there is also a metal shed that is not on the drawing because it will be removed.

Glenn Chickering, abutter, advised that the only ones who could see the shed are he and Johndro above the property. He stated that this is a small lot that slopes down steeply toward the stream.

Davenport moved to close the public portion. Fales seconded the motion, which carried unanimously.

The Board noted that the application would be considered under Boccia. Cay noted that this is an issue of whether it can be done somewhere else on the lot. This proposal is the desired spot but is it feasible elsewhere. The pictures were reviewed. Coverage is not an issue.

Cay moves to continue the meeting to a site visit on Saturday, January 17, 2009 at 10:00 am. Larkin seconded the motion, which carried unanimously.

3. Review 11/11/08 Meeting Minutes

Cay moved to approve the November 11, 2008 meeting minutes. Davenport seconded the motion, which carried. (Voting: Cay, Davenport, Evans, Riendeau)

4. Adjournment: The Board adjourned at 10:00 pm.

Respectfully submitted,

Carol Ross
Secretary

Approved:

Burton Riendeau
Chairman, Zoning Board of Adjustment

Date:_____