

Zoning Board of Appeals  
Special Meeting  
September 10, 2018

**ZONING BOARD OF APPEALS  
TOWN OF EAST WINDSOR  
11 RYE STREET  
BROAD BROOK, CONNECTICUT, 06016**

**MINUTES OF SPECIAL MEETING**

**Monday, September 10, 2018, 7:00 p.m.**

**\*\*\*These minutes are not official until approved at a subsequent meeting\*\*\***

**Regular Members Present:** Jose Giner, Nolan Davis, Thomas Talamini, Scott Morgan & Dan Noble

**Regular Members Absent:** None

**Alternate Members Present:** Bob Yosky & Bob Slate

**Alternate Members Absent:** Mystica Davis

**1. ESTABLISHMENT OF QUORUM:**

A quorum was established as all 5 regular members and 2 alternates were present. All Regular members were present so no alternates needed to sit in as voting members.

**2. CALL TO ORDER/PLEDGE OF ALLEGIANCE:**

Chairman Giner called the Special Meeting to Order at 7:00 p.m. Everyone stood and said the Pledge of Allegiance.

**3. NEW HEARING:**

Mr. Talamini read the Legal Notice as it appeared in publication.

**ZBA #2018-04** – Application of Newberry Road Enterprises for property located at 68 Newberry Road, for a variance of Section 816.1.B.3 *Minimum Standards for Composting/Wood Chipping Facilities* to allow a reduction in landscape buffer from abutting properties from 100 feet to 25 feet. (M-1 zone; Map 93, Block 19, Lot 6)

Steve Dearborn came forward to explain his application. Mr. Dearborn brought Guy Hesketh, a licensed professional engineer, to make a presentation to the Board about his application. Mr. Hesketh brought along maps of the property and drawings that outlined the variance that Mr. Dearborn was asking for. Mr. Hesketh went over the drawings and showed where the wetlands are on the property. He also showed where the current operations are and the property lines are.

Mr. Dearborn is not looking to expand his operation to the east because of the wetlands. He already has a site plan and special use permit granted when he first went to start the mulch operation. Mr. Dearborn was granted a 75 foot vegetative buffer and a 25 foot access pathway. The pathway was put in because at the time the fire marshal wanted unlimited access around the perimeter of the operation. Mr. Dearborn is asking for a 25 foot vegetative buffer and a 15 foot access pathway. Since Mr. Dearborn was already granted a 75 foot vegetative buffer instead of the normal 100 foot it is a reduction of 50 feet not 75 feet.

Mr. Hesketh stated that Mr. Dearborn is asking for this variance because of a Hardship. He stated that the hardship is because he can't expand to the east because of wetlands. He went on to explain that these were not manmade and that they were made by Mother Nature. Mr. Hesketh stated that Mr. Dearborn has notified all of the abutting neighbors. When asked how much more land would be made more available Mr. Hesketh stated it would be about 6 or 7 acres. He also clarified that the access road only goes around the operation and not the whole property. Mr. Hesketh also explained that the land is already graded so no extra work would have to be done with that. The runoff all goes in the same direction so no alterations are needed.

Mr. Dearborn stated that he is only looking for a small strip of land to store more wood on. He thinks about 1 ½ more acres. He knows there is a petition out there to stop this and he feels that some of the complaints and concerns are outrageous. He states that when the piles are there they do not create dust and they stifle the noise. He states that you cannot see or hear the machines running. He also states that if you stand next to the machines they do not vibrate the ground. Mr. Hesketh stated that Mr. Dearborn is in compliance with all the inspections.

At this time Mr. Giner opened up the hearing up to the public.

Attorney Megan Hope came to represent property owner, Jerry Wilcox of 50 Newberry Road. They are here in opposition of the application. Attorney Hope asked for board member Dan Noble to recuse himself. She states that Mr. Dearborn purchased the property from the Noble family in 2007. Mr. Noble stated that he did not feel the need to recuse himself because he had no monetary gain from the sale. He said he has no direct connection or anything to gain from the variance.

They feel that he does not meet the hardships that he is claiming. They state there is access to other parts of the property that is not wetlands. She states that he has gotten a wetlands permit before and she does not believe that he has tried to get a new wetland permit to expand into other wetlands. She states that Mr. Dearborn says the wetlands are an impediment to him because she states that he has gotten a permit before.

Attorney Hope states that they want the board to deny the variance because it would be detrimental to Mr. Wilcox's property and he would have a difficult time trying to find a tenant

Zoning Board of Appeals  
Special Meeting  
September 10, 2018

for the new building. She stated that there was a petition submitted with 6 names on it from neighbors wanting to deny the variance. When Mr. Wilcox was asked by the board if he had any pictures of the dust and debris he stated that no, he did not have any pictures. He said he is having difficulties getting client to commit to the new building he wants to build because if Mr. Dearborn goes any closer to the property line with his operation then he won't get anyone to move in to the building.

Doug McClary – 7 Craftmans Road, stated that he has been at that property for 35 years and that there is vibration from the operation. He is afraid that if Mr. Dearborn gets closer to his business it could mess up some of the specialized cuts that they make and it could cost him a large amount of money. He also states that since Mr. Dearborn has clear cut the land there is water drainage that causes ice in the winter. He isn't sure if it is underground water but he says it started when the land was clear cut.

Michael LaBrecque – 63 Newberry Road, he is concerned about fire issues and noise. He states that he has dust depending on where the machine is. He says it is very noisy and he can hear it in his office with the windows shut. He states that the operation goes 7 days a week at times. He is planning on building a new building in the future and has a concern that with the expansion he won't be able to sell it or get a tenant. He says that the mulch piles are smoldering and they were putting water on them. He is concerned that if the piles do catch on fire the fire department won't get to the fire in time and he may lose his business also.

Paul Anderson – 89 Main Street, Broad Brook, stated that he leans toward business growing. His thoughts on this lean towards letting this variance happen. He is a great believer in growing business and he feels that if more of the property can be used it should increase the property value and that is good for the Town.

Mr. Hesketh stated that many times over the last 5 years that there were meetings about this property Mr. Wilcox has been at all of the meetings. He stated that he has brought all types of pictures. He stated that Mr. Wilcox was concerned about all of the dust on his property yet he had no pictures of it. He also states that Mr. Wilcox had a vibratory compactor on his property for a few days and he was using it. This was within the last month and he felt that it was possible that it could have been the vibratory compactor that was shaking Mr. McClary's building.

Mr. Dearborn stated that the water that was being put on the mulch piles was for the aging process not fire. It breaks it down and adds to the natural mulch which is a year and a half process. He also stated that the vibration was from a vibratory roller. He also stated that there was no way that the water from his land was causing the ice because his land is lower than Mr. McClary's land. He stated that there is no way it is from him. Mr. Dearborn stated that he was not made aware of the zoning changes made in 2014 regarding mulch operations.

Paul Anderson - stated that a retail store in town has mulch on their property line and that mulch on a property line does not make a detriment.

Rand Stanley – 87 Rye Street, stated that he thinks that the operation mirrors a contractor’s storage yard. He wonders if the rules were changed in 2014 just with Mr. Dearborn’s property in mind. He stated that that piece of property has been scrutinized more than any other piece of property in Town.

**MOTION** made by (N. Davis) and **SECONDED** by (Talamini) to close the public hearing at 8:25 p.m.

In Favor: All

Opposed: None

Motion: **PASSED**

**MOTION** made by (Talamini) and **SECONDED** by (Morgan) to approve the **ZBA #2018-04** – Application of Newberry Road Enterprises for property located at 68 Newberry Road, for a variance of Section 816.1.B.3 *Minimum Standards for Composting/Wood Chipping Facilities* to allow a reduction in landscape buffer from abutting properties from 100 feet to 25 feet. (M-1 zone; Map 93, Block 19, Lot 6)

In Favor: Talamini, Noble & Morgan

Opposed: Giner & N. Davis

Motion: **FAILED**

**To pass the variance the vote has to have 4 out of 5 in favor.**

**4. OTHER BUSINESS:**

None

**5. PUBLIC PARTICIPATION:**

Robert Leach – wanted to commend the Board in their deliberations.

**6. APPROVAL OF MINUTES:**

**MOTION** made by (Morgan) and **SECONDED** by (N. Davis) to accept the Minutes of the Regular Meeting, August 6, 2018, as presented.

**In Favor:** N. Davis, Talamini, Morgan, Noble

**Opposed:** None

**Abstain:** Giner

Zoning Board of Appeals  
Special Meeting  
September 10, 2018

Motion: **PASSED**

**7. ADJOURNMENT:**

**MOTION** made by (Talamini) and **SECONDED** by (Morgan) to adjourn at 8:35 p.m.

In Favor: All

Opposed: None

Motion: **PASSED**

Respectfully Submitted,

Rebecca D'Amicol, Substitute Recording Secretary