

The meeting was called to order at 7:30 p.m. Those attending were Mike Iafolla, Russell Jeppesen, Mark Johnson, Robert Field, Dick Wollmar and Russell McCann (alternate).

The first order of business was to approve the minutes from the March 21 meeting. Mike Iafolla had one correction to the minutes: "Mike Iafolla stated that according to Town Counsel, John Ryan, that the property owner that has a special exception, is not prohibited from performing activities outside of the special exception", the correction "that the property owner is not prohibited from full use of his land." He also stated that the two cases concerning Mr. Pearce which were not properly advertised, would be on the agenda for the May meeting, and readvertised at the Town's expense.

Case 2001:11 – Seacoast Indoor Tennis Club, for a special exception to Article IV, Section 405 for a nonprofit recreational use in an R-1 zone.

Paul Charron, Building Inspector, stated that prior to the meeting, he had been given a copy of the original special exception, granted in 1968. If he had had this prior to the meeting, he didn't think the applicant would have had to come to the meeting. The Board examined copies of this, and stated that the only problem was that it was not dated. The Board also stated that the building had been in operation for many years, and did not have a problem with the special exception. The members decided that they needed some type of authentication and asked the applicant to provide a sworn affidavit of the granting of the special exception. Michelle Peckham, representing the applicant, stated that they are under code and have been since 1968. A motion was made to approve subject to this sworn affidavit being supplied by either Harlan Cutshall or an original member of the Board that approved it at that time, seconded by Russell Jeppesen, vote was 4-1, Bob Field abstained because his wife was in line to be a shareholder.

The Board then decided to elect a new Chairman. Bob Field nominated Mike Iafolla, seconded by Mark Johnson, vote was unanimous.

A motion was made by Mark Johnson to approve the minutes, seconded by Bob Field, vote was unanimous.

Motion for Rehearing, 67 Winnicut Road

Mike Iafolla stated that the two cases, one regarding compliance and the other the validity of the special exception, have been remanded to the local legislative body (ZBA). The Board stated that they needed some direction, and made the motion to instruct the Building Inspector to work with Datilio and the abutters to identify the key issues and require each counsel to submit briefs on these issues not to exceed six (6) pages and to present them at least fifteen days in advance of a special meeting (date to be set), seconded by Mark Johnson, vote was unanimous.

Case 2001:12 – Lamprey Oil, 227 Atlantic Avenue, Bulk Storage Facility, requests a variance to Article IV, Section 406 setbacks for remodeled facility; and a variance to Article IV, Section 409.9 for less than 50' setback to wetlands.

Don Lamprey presented a model of the new facility and explained that it would be a concrete containment system, which was state of the art. The reason for doing this, was that the existing tanks are 78 years old, and the containment system was an earthen dike that is not very effective in case of a spill. He stated that storage capacity is now 90,000 gallons, the new tanks would be 180,000 gallons. The motion to approve was made by Bob Field, seconded by Dick Wollmar, vote was unanimous.

Paul Charron, Building Inspector, had a presentation regarding 114 Woodland Road to present to the Board. Mike Iafolla, owner, recused himself. Paul stated that the Planning Board requires the Zoning Board to review all requests for properties asking for a subdivision, and since the Building Inspector couldn't consult with the Chairman of the Board, they had to bring the issue to the Board. The property consists of seven acres, and Paul believed that the subdivision could be granted without a variance. The Board concurred with his decision.

Case 2001:13 – James Jones, 120 Lafayette Road, for a Special Exception to Article IV, Section 405 to allow for screening under special exception #4, Planned Unit Industrial & Business Projects.

James Jones spoke for the petition. He stated that screening was an auxiliary use in landscaping and that he would resolve the issues with the abutters; he would bring the pile into compliance with Planning Board requirements, and that he was very close to getting final approval from the Planning Board. The main issue regarding the screening, was the vibration and he is looking into getting a pad to limit the vibration. The screener has been moved to the center of the lot. He has had no complaints from DOT about dirt on Route 1. The noise issued will be resolved with the berm and landscaping; hours of operation will be within reason, 7:30 – 5:30. Mike Iafolla stated that there has to be strict regulations to meet the concerns of the abutters, and that an emergency stop will be in place if the applicant does not comply with all the conditions that the Building Inspector implements. The Chairman, Mike Iafolla, then quoted the minutes of August 16, 2000 regarding the granting of the Special Exception:

Mr. Field then made the following MOTION: That, as to Case 2000:27, the Board grant a Special Exception to James Jones, for the conduct of a retail/wholesale “landscaping” business at 120 Lafayette Road, and in connection, to permit the short term storage on site of loam and other essential landscaping materials as inventory. Mr. Wollmar seconded the Motion.

Mr. McCann then suggested that the motion be amended to define “short term.” He suggested 90 days. Mr. Field agreed to the proposed amendment, and the addition of the phrase “...no to exceed a ninety (90) day supply” to the Motion. There being no further discussion, votes were later taken on the (I) amendment and then (ii) on the motion as amended. The motion as amended was approved in the following form:

VOTED: Case 2000:27, the Board grant a Special Exception to James Jones for the conduct of a Retail/Wholesale “Landscaping” business at 120 Lafayette Road, and in connection, to permit the short term storage on site of essential landscaping materials as inventory not to exceed a ninety (90) day supply. Each vote passed unanimously. VOTING FOR: Messrs. Field, Wollmar, McCann, Johnson and Chairman Iafolla.

Mike asked Mr. Jones if it was intention within a specified time to move screening off of the property; Mr. Jones said yes. Russ McCann asked him what the location would be when he moved the dirt; Jim said he didn't have a location yet. Mike also stated that he would confine his activities to specific times, and ancillary noise needs to be controlled. If dust becomes a problem for your neighbors, he will have to stop.

Speaking against the petition: Mr. John Ennis, 18 Woodridge. He stated that his counsel was not present yet, but that he felt that Mr. Jones has had ample time to come into compliance. Ron Todd, 6 Woodridge, submitted a letter along with a petition signed by nineteen neighbors/abutters this will part of the permanent record.

Dr. Hiltunen, of 1 Woodridge and 2 Juniper quoted from Ned Tate's letter about the reduction in property values of people in this neighborhood. He referred to a letter from RPC, John Krebs dated 2/16/01 and read Ron Todd's letter and then asked the Board to deny this petition.

Attorney Craig Salomon, representing the abutters/neighbors, stated that the dirt operation has been an issue for months. He also stated that Mr. Jones had not applied to the Zoning Board under the correct special exception. He reviewed the minutes and the chronology prepared by Don Gould of the Planning Board, and in his opinion, Mr. Jones has been slow to comply, which is his legal right. He also said that the applicant applied under the incorrect special exception. He also stated that this petition should be denied, because it is contrary to the ordinance; it does not promote the public health, safety, welfare, comfort convenience, appearance, prosperity or general welfare. He stated that neighbors close to this project have had their property values substantially reduced (reference Edward Tate letter dated April 17, 2001). Additionally, neighbors in close proximity have suffered breakage and dirt debris as the result of the vibration arising from this use. He also stated that the health and safety of patients at the nearby chiropractic center has been impaired. Other speakers raised questions about type of soil is there, where does it come from, if it comes from the road, does it contain salt or petroleum products. Betty Carroll stated that her health has been affected by this property, she has had a partial lung removed, and has cancer. Cathy Tingle, 10 Woodridge, stated that she is vehemently against the petition. The applicant removed trees that were on the property line, which she was against. Nancy Duane, 11 Juniper, stated this was "total blasphemy" and wanted the petition denied. John Ennis asked where does the soil come from? Mr. Duffy stated that there is horse manure mixed in with the topsoil. Jim Jones stated that this is no different than what other landscapers do. Dr. Hiltunen stated yes, but not near residential. Mike Iafolla stated that there are other operations near residential areas.

Attorney Salomon asked Jim Jones if there was a means to an end; the material needs to be screened to lower the pile, then move the screening process. Mike stated to Jim Jones: clean up your property, put up your building and move screening offsite, is this your long- term goal? What is long term? Jim replied that he doesn't know.

Attorney Salomon stated that local input from townspeople has to be applied to this situation in making a decision.

Chairman Iafolla then closed the public portion of the meeting, and the Board went into deliberation.

The Board decided to table this case to a time and date certain, Wednesday, May 16, 2001 at 7:30 p.m. pending further information from the applicant: final approval from the Planning Board that substantial efforts to comply with earlier orders had been made, to propose scientific standards to measure appropriate levels of dust, vibration and noise at the property line, and definition on how a 90-day supply of inventory will be measured. A motion was made to this effect, seconded and unanimously voted.

The meeting adjourned at 10:45 p.m.

Respectfully submitted,

ZBA Minutes
4/18/01

Tina Kinsman
Recording Secretary