

**NOTTINGHAM PLANNING BOARD**

**June 27, 2012**

**PUBLIC SESSION**

*Approved & Amended*

**Type of Meeting:** regularly scheduled meeting

**Method of Notification:** Posted at the Nottingham Municipal Building & Nottingham Post Office

**Meeting Location:** Nottingham Municipal Building

**PB Members Present:** Troy Osgood, Vice Chair, Susan Mooney, Secretary, John Morin, Dirk Grotenhuis, Hal Rafter, Selectmen's Rep., Ed Viel, Robert "Buzz" Davies, Alt. Member

**PB Members Absent:** Arthur Stockus, Chair, Cheryl Smith, Alt. Member, Traci Chauvey, Alt. Member,

**Others Present:** Lisa Sears, Land Use Clerk, Paul Colby Building Inspector/Code Administrator, Linda & Jim Fernald, Chuck Cosseboom; Rymes Heating, Tom Sweeney

Mr. Osgood, Vice Chair ran the meeting in the absence of Chair Stockus. Mr. Osgood called the meeting to order at approximately 7:02 pm. Introductions were made. The Board moved the review of the minutes to after the public hearing. Mr. Davies was seated for Chair Stockus. Mr. Osgood called the first case.

**Review of a possible Wireless Communication Ordinance(WCO) – Jack Mettee, Mettee Planning Consultants**

The Board reviewed two documents provided by Mr. Mettee: *Elements of Wireless Communication Ordinance & Issues to Consider for Local Regulation*. Mr. Mettee reviewed in detail issues for the Board to consider when developing a WCO such as Height, Safety, Interference, Noise, Visibility, Camouflage, Design, and Equipment Shelters. He also reviewed the regulatory framework, the federal regulations and what a local ordinance can do along with the existing federal law.

The Board asked various questions but decided that they need more time to review this information and hold a workshop before deciding on some of the key issues for Mr. Mettee to write such an ordinance. The Board will hold a workshop on July 18, 2012 to provide Mr. Mettee with answers to issues raised tonight. Mrs. Sears will provide Mr. Mettee with data from the workshop by August 8, 2012. Mr. Mettee will return to the Board on August 22, 2012.

**Public Hearing(s)**

**Case #P11-07-SIT** (continued) Application from **James S. & Linda R. Fernald** for acceptance, compliance review, and final approval of site plan review to allow

the leasing of .5 acre for commercial propane tank to Rymes Heating. The property in question is located at 240 Stage Road and is identified as **Tax Map 29 Lot 8-1**.

Mr. Osgood noted the case had been continued pending a decision from the Zoning Board of Adjustment (ZBA). He stated that the ZBA had approved the applicant's requests and the Applicant was back before this Board. He acknowledged the letter from Mr. Russo, ZBA Chair with his comments/concerns for this case (dated June 17, 2012) and Mrs. Sears noted that all the members had received it via email. Mr. Osgood read the list of outstanding items for the applicant was provided from Chair Stockus via email (May 15, 2012).

Mr. Cosseboom, Operations Manager/Safety Director for Rymes updated the Board in regards to communication with Fire Chief Vilchok to date; noting communication was directed through the State Fire Marshall's office as Chief Vilchok has not responded to any of Mr. Cosseboom's communication.

Mr. Cosseboom noted that this application has gone on for a long time and he hoped to finish soon. Mr. Cosseboom also reviewed each item from Chair Stockus' list. Included on that list is a list of missing items from Mr. Sherman's review of Nov. 8, 2011. Mr. Cosseboom submitted a packet of items, noting most probably are already in the file but he wanted to make sure all the requested items from the list were submitted. Mr. Cosseboom noted that there are a few outstanding items and he would be requesting one final hearing to review those last pending items.

Mr. Cosseboom noted that they still have not received details of the amount spent with Mr. Sherman. Mrs. Sears noted that Mr. Sherman has stated that he will not deal directly with the applicant or his attorney since they have threatened him with a lawsuit. Mr. Sherman has asked to direct all inquiries through the Town. Mrs. Sears noted that she has asked for a detail bill but Mr. Sherman has noted that there will be a charge for it. Mrs. Sears had asked if the Town wanted to spend that money and was told not to. Mr. Cosseboom stated that it is reasonable to know what they are paying for.

Mr. Cosseboom addressed his company's reputation and submitted letters of support from towns in which they have operations and briefly discussed similar facilities and photos submitted to the ZBA like the Town of Claremont NH which has a facility in the center of town.

During the course of the evening they reviewed in detail the list of missing items.

*Mr. Sherman's report - November 8, 2012*

- a. (1) Rymes has noted that they have received approval from the State Fire Marshall (SFM) to use the 2011 edition of NFPA 58. The State has not yet adopted this and a letter from the SFM stating the 2011 edition is allowed has not yet been furnished.

b. (18) Requires written compliance with EPA 40 Part 68. Rymes has discounted this claiming a “retail” operation. Rymes needs to provide a reference to EPA regulations that classifies their type of operation as “retail” or provide the requested material.

c. (23) Requests fire protection analysis and Rymes response is similar to b. above claiming a “retail” operation. Comments of b. apply.

d. (25-30) Requests have Rymes again claiming “retail” operation excludes them from compliance. Comments of b. above apply.

During the discussion the above items were addressed and Mr. Cosseboom submitted a copy of the EPA’s Risk Management Program Guidance for Propane Storage Facilities (40 CFR Part 68). Mr. Osgood read the definition of a retail establishment. Mr. Cosseboom noted this proposed facility is a retail operation, therefore they are not required to do the EPA requirements. The Board agreed in an informal poll that this proposal is a retail operation and is not subject to the EPA standards in the Fire Analysis review by Mr. Sherman. Mr. Viel would like more time to review and suggested a letter on file stating this is a retail operation. Mr. Cosseboom agreed to have the State Fire Marshall’s office write a letter stating so. They agreed that the same letter could also confirm the approval of the use of Code NFPA 58 in that same letter.

e. (33) Requests engineering analysis of the bridge. The claim of the site being approved for a bulk plant is misleading. The current application is a change of use requiring the analysis.

Mr. Fernald passed out and reviewed draft plans for the engineering of the bridge. Later in the discussion the Board agreed to allow the bridge to be 16’ clear span in width. It was noted that this bridge was not for a subdivision or a town road, the Lamprey River Advisory Committee are going to do a site walk and will have a review. Mr. Fernald noted he would be doing the bulk of the construction of the bridge but would be contracting out some of the work. He noted it would be steel I beam construction and there would be the proper inspections.

*Under Section VII Site Plan Requirements the following items need to be addressed.*

2. VII, C, (2) Streets within 2,000 feet must be shown (Priest Road).

3. VII, C, (5) Show Community Facilities; school and Fire Station (nearest building corners).

Mr. Cosseboom will add to plan possibly having to change the scale to accommodate it.

4. VII, D, (3) Layout of proposed structures.

Mr. Cosseboom noted that there were none.

- 138                   5. *VII, D, (4) Show contours.*  
139                   6. *VII, D, (8) Location width and paving of roads. Access road must be laid*  
140                   *out on the plan and any areas of pavement clearly delineated.*  
141 Will be on final plan  
142  
143                   7. *VII, D, (9) Layout of parking and loading facilities.*  
144 No parking just loading and unloading  
145  
146                   8. *VII, D, (10) Location and size of utilities (power).*  
147                   9. *VII, D, (12) Location and layout of drainage.*  
148 There is none needed.  
149  
150                   10. *VII, D, (13) Location of physical and natural features (wetlands,*  
151                   *watercourses, woodlands).*  
152 Will be on final plan  
153  
154                   11. *VII, D, (15) Location of flood hazard boundaries.*  
155 Will be on final plan  
156  
157                   12. *VII, D, (16) Date and permit numbers both state and federal.*  
158 None needed if no EPA requirements and a new NH DOT driveway permit will be needed.  
159  
160                   13. *VII, D, (19) Landscaping plan – including signs and fences.*  
161 No new signs, a new gate will be added. No new landscape buffers. Mr. Fernald will be  
162 clearing out some brush in the area as well.  
163  
164                   14. *VII, D, (22) Location of lighting.*  
165 Lighting was discussed but not finalized; possibly motion detected or light sensitive or  
166 both.  
167  
168                   15. *VII, D, (23) Location and width of easements (?) rights of way (?).*  
169 There are no new easements or right of ways.  
170                   16. *VII, E, (1), (c.) Waivers if any.*  
171  
172 If the scale of the final plan needs to be changed or they can't include something on the  
173 plan due to the scale Mr. Cosseboom will request a waiver. There are currently no waiver  
174 requests. He added the requirements from NFPA 58 will be noted on the final plan.  
175  
176                   17. *VII, E, (2) Drafts of deeds or easements.*  
177  
178 Mr. Cosseboom provided copies of the deed tonight. Mr. Cosseboom added that they had  
179 shown it on a separate plan provided with contours noted. He also noted that as part of the  
180 process some of these details do not get onto the plan until completed and that final plan  
181 will be submitted at the final hearing. Mr. Grotenhuis requested that the applicant submit  
182 the new/final plans well in advance of the final hearing so that the Board has time to review  
183 before the meeting. Mr. Cosseboom agreed.

18. VII, E, (3), (a.) *Certification of action of ZBA.*

Submitted tonight.

19. VII, E, (3), (c.) *Actions of regulatory bodies both state and federal.*

20. VII, E, (3), (c.), (iv) *DOT permits.*

*Under Section IX Design Standards the following must be addressed;*

17. IX, F *Utility layout.*

18. IX, G, (2) *Loading / parking design and related drainage.*

19. IX, J, (3), (a) *Landscape buffer.*

20. IX, K *Address special flood hazard areas.*

All were previously addressed or will be on the final plan.

Discussion moved to safety of the facility and equipment, mutual aid and emergency procedures. It was noted that Rymes has a very good track record and has had no catastrophic failures. Mr. Cosseboom explained that he provides training to area fire departments/mutual aid system and the advances in technology/equipment in the industry. It was also noted that Mr. Fernald would be providing the snow removal.

Mrs. Sears noted that at a previous meeting the applicant was asked to provide an additional \$5,000 for the escrow account. The Board discussed the need for any more input from the third party expert. Mr. Fernald noted that the State Fire Marshall's office is also an expert in these matters. Mr. Osgood stated that he didn't believe Mr. Sherman's services were no longer needed. Mr. Grotenhuis stated that Mr. Sherman needed to be paid for his services and asked the applicant if they were willing to pay the balance due to Mr. Sherman. Mr. Cosseboom agreed to pay as soon as he gets a full accounting of all the invoices to date. Mr. Colby stated that according to the RSA the Town owes the applicant an explanation of costs incurred.

Mr. Cosseboom stated that they have paid approximately \$5,600 to date for the review of the Fire Safety Analysis which is twice the cost of the original design. He added that at last account there was \$1,600 left and then it was gone and he quoted Chief Vilchok having said that it didn't matter the cost it was on Rymes dime; which Mr. Cosseboom noted he has the Chief saying on the audio tape of that meeting. Mr. Cosseboom said he was willing to pay for the review of the fire safety analysis but he was not willing to pay for Chief Vilchok's education. Mr. Sherman needs to provide a detail document on what was spent for the review of the 16 page document. Mr. Cosseboom question Mr. Sherman asking 17 of 36 questions on the EPA guidelines that he believes do not apply in this case. He requested that he should know where his money was spent.

Mr. Osgood noted that for the Planning Board, he didn't believe Mr. Sherman was needed any longer. Mr. Morin agreed.

230

231 **MOTION by Mr. Morin** that the Planning Board no longer needs Mr. Sherman's services  
232 and they no longer need the \$5,000 for the escrow account previously requested.

233 **SECOND by Ms. Mooney**

234 **VOTE 6-Aye. 0- Opposed 1- Abstained MOTION PASSED**

235

236 Mr. Viel asked if there was any remote monitoring of the facility. Mr. Cosseboom noted  
237 that it does not but there is a red button that is a remote shut down as required by NFPA 58.

238

239 Mr. Grotenhuis again requested that the members each receive a copy of the final plan at  
240 least two weeks prior to the next meeting. Mr. Cosseboom agreed.

241

242 **MOTION by Mr. Grotenhuis** to continue this case until August 8, 2012 at approximately  
243 7:00pm

244 **SECOND by Ms. Mooney**

245 **VOTE 7-Aye. 0- Opposed 0- Abstained MOTION PASSED**

246

247 Mr. Cosseboom thanked the Board.

248

249 **Approval of Minutes**

250

251 Due to the late hour the Board tabled the review of previous minutes.

252

253 **MOTION by Ms. Mooney** to adjourn at 9:25pm

254 **SECOND by Mr. Grotenhuis**

255 **VOTE 7-Aye. 0- Opposed 0- Abstained MOTION PASSED**

256

257 **Respectfully Submitted,**

258

259

260 **Lisa L. Sears, Land Use Clerk**

261

262 *These minutes are subject to approval at a regularly scheduled Planning Board meeting*  
263 *at which time the above minutes are corrected or accepted.*