NOTTINGHAM ZONING BOARD OF ADJUSTMENT

May 15, 2012

PUBLIC SESSION

Approved & Amended

PRESENT:	**ABSENT:**
Mike Russo, Chair	Robert Davidson
Terry Bonser	Jim Crowell, Alternate
Romeo Danais	Kevin Bassett, Alternate
Bonnie Winona	
John Morin, Alternate (not seated)	

OTHERS PRESENT:

Ms. Lisa Sears, Land Use Clerk, Fire Chief Jaye Vilchock, Jim & Linda Fernald, Chuck Cosseboom; Rymes, Nick Cricenti, SFC Engineering, Chris Mills, Tom Sweeney, Bonnie Snell, Sue Gunderson, Heidi Carlson, Bob Desrosiers, Tara Blaney, Dawn Fernald, Susan Levenison

Chair Russo called the meeting to order at 7:00pm. The review of the minutes was moved until after tonight's case. Chair Russo explained tonight's procedure, explaining that there is not a full board tonight so that the applicant may request a continuance anytime before the vote is called. Mr. Fernald asked to proceed. Chair Russo called the case.

Case 12-01-V (continued) Application from James & Linda Fernald for a Variance to Article II Section C & E, *to lease to other vendors: ie Rymes Propane & Oils, Inc.* The lot in question is located at 240 Stage Road, identified as Tax Map 29 Lot 8-1, and is owned by James & Linda Fernald

Mr. Fernald briefly explained the nature of the existing business and the need to change with the economic times. He noted that he has not spoken to any other potential businesses other than Rymes at this time. He added that he prefers to have some kind of lumber product business but there is no set business plan in place at this time. Mr. Fernald reviewed the plans with each Board member showing the 50 acre proposed commercial area and the 20 acre cleared area already within that 50 acre area. The property has almost 181 total acres.

Chair Russo did say that it was better defined than the previous plan submitted. It was noted that a Google map of the property was also submitted, it notes various distances as well. It was noted that Mr. Fernald is asking for 50 acres and not the 30 acres originally stated on the application. The Board had asked at the previous meeting for a more specific plan than what was first applied for. Mr. Fernald noted that he has no plans for a second kiln and will not reopen the saw mill. He noted that someone else may if the economic conditions change. There was a brief discussion on other possible businesses that would be interested in the property.

Chair Russo read and reviewed each of the five criteria for a variance. Each member was polled after each one was read and all members agreed that the applicant met all five of the criteria unanimously. During this review Chair Russo also read the uses allowed in the Commercial/Industrial zone from the *Nottingham Zoning Ordinance*.

Chair Russo noted that each member should fill out their workshops and Mrs. Sears will collect them for the file at the end of the meeting.

MOTION by Ms. Winona to grant the Variance for Case 12-01-V as written.
SECOND by Mr. Bonser
VOTE 4- Aye. 0- Opposed – 0-Abstained **MOTION PASSED**

Mrs. Sears will send the applicant a Notice of Decision.

Point of Order: The Board recessed for about five minutes at approximately 7:35pm.

Chair Russo opened the next case:

Case 12-02-SE Application from James & Linda Fernald for a Special Exception to Article II Section E.1. J, *to lease .5 acre to Rymes Propane & Oils, Inc. for installation of two 22,000 gallon propane tanks.* The lot in question is located at 240 Stage Road, identified as Tax Map 29 Lot 8-1, and is owned by James & Linda Fernald.

Mr. Fernald introduced Mr. Cosseboom from Rymes and Mr. Cricenti, from SFC Engineering and gave a brief description of his proposal noting the plan submitted. Chair Russo gave the Board a few minutes to read the applicant's answers to the Special Exception questions (criteria) on the application.

Chair Russo asked if the Applicants, the Fire Chief and the State Fire Marshall's office had a chance to meet as discussed at the last meeting. It was noted that they believed that it would best to meet after the ZBA decision on this case if it passes.

Chief Vilchock asked that any meetings with the State Fire Marshal's office be documented.

Chair Russo noted that for a Special Exception to be granted the applicant must meet 3 Criteria. He read the first criteria question and the applicant's answer. Chair Russo briefly reviewed RSA 674:17 I (the purpose of the Zoning Ordinance). He also encouraged the applicant to contact the NH Dept of Environment Services – rivers protection program division due to the proximity of this project to the North River early in the process for their input.

The discussion was on: lighting noted that Nottingham has a lighting ordinance, minimal clearing of land, a solar powered gate at the entrance of the property, the tanks will not be seen from Rte 152.

Mr. Danais asked about the fire code (NFPA 58). Mr. Cricenti introduced himself noting various safety issues including the designs and guidelines to protect the public and recent professional studies and their findings. Mr. Cricenti and Mr. Cosseboom reviewed in detail

the valves used in today's standards, the barriers used to protect the tank itself and the construction of the tanks and the general science involved with different scenarios.

It was noted that the Fire Chief will be responsible for installation/construction inspection if passed by this Board and the Planning Board. Mr. Cosseboom added that State Fire Marshals office and Mr. Joe Rose from the Propane Gas Association of New England also conduct inspections as well. The various inspections during operation and construction were discussed and answered. As was various construction questions.

Mr. Bonser asked Mr. Cosseboom about other tanks and locations and approximate distances from their land marks, roads etc. Later in the meeting, he submitted photographs of them. During the discussion Chief Vilchock objected to the comparison noting this installation is not for storage tanks but for bulk distribution. More construction details, emergency scenarios and the nature of the propane gas if it escapes were reviewed. Mr. Cricenti noted it depends on situation but it would quickly burn off.

Chair Russo asked for more data on how close existing tanks are to schools and day care centers. Mr. Cosseboom noted that he didn't come prepared for that question but could get that for the Board. Mr. Cosseboom supplied the Board with some letters from various Fire Chiefs in which Rymes Heating operates.

Chair Russo noted that he finds it difficult to decide without a detailed site plan from the applicant. The Board reviewed the photographs of other Rymes propane tank installations. He also submitted a typical plan design of a tank. Board members exchanged questions and answers with Mr. Cosseboom about the photos and plans submitted.

Mr. Danais asked Chief Vilchock about the RSA 674:17 (I) "…to secure safety from fire and other dangers." The Chief stated his concerns were in the three letters he has submitted at the last meeting. He asked if the Board had read his letters. Mr. Danais stated he had not. The Chief stated that this facility is different than any other because of its proximity to the school, daycare and fire department. He also asked the Board to consider the traffic issue as well. Discussion was on road width and if there was enough room for the trucks and the possibility of updating of the bridge to the proper width. Mr. Danais asked the Chief to review the plans with him. Chief Vilchock stated that he was not prepared to do a real time analysis right now and all his concerns are documented in those letters previously submitted to the Board.

Mr. Danais discussed the possibility of clearing more area in the proposed site to move the tanks a bit further back and would that satisfy the Chief's concerns.

Mrs. Sears noted that the half mile radius was noted on one of the plans. A half mile radius was discussed noting that was for a moving propane tank evacuation plan. Mr. Fernald noted that if moved further back there is more wetlands and other issues but they may gain some distance but the current proposed area was better because it was better for the fire trucks to get in and fewer trees to fall in the area. Mr. Fernald agreed there still would be some more trees cleared in the proposed area as requested by the Chief.

Mr. Russo acknowledged that the half mile radius from the school does fall out of the commercial zone area that the Board just approved. Chief Vilchock noted all these issues are in the fire safety plan that is still in review.

Chair Russo again noted his concerns in the case of a leak. Mr. Fernald compared it to the existing tanks at the school, acknowledging they are smaller. Discussion with various residents was on when those tanks are filled; various times of the day and night were noted.

Mr. Fernald again noted the new science involved in the planning of these installations. Mr. Cricenti asked to clarify that the half mile radius for a moving tanker propane truck has no relation to a stationary facility that is being proposed.

Chair Russo disagreed citing the trucks needed for the facility. Mr. Cricenti noted that those trucks are on every street in town, and the trucks in a stationary position are at their safest. Discussion was on the likelihood on human errors. Mr. Cricenti agreed that is why the Codes and designs used were developed because of previous human errors. Mr. Cosseboom stated that if they can't meet these national standards then they didn't want a facility there. Mr. Fernald noted that even if this Board approves tonight then that doesn't mean they start building it tomorrow.

Ms. Blaney expressed her concerns for building this type of facility so close to a school and day care.

Mr. Bonser noted that he has recently noticed similar facilities in the region and that there already are a lot of propane trucks on the road. Discussion was on the dangers of those trucks.

Discussion was on the half mile radius of the school and the fire departments response raised by Dawn Fernald. Various scenarios and the science and engineering of propane and its processes raised by residents and Board members were discussed in great detail. During the discussion Mr. Sweeney expressed his concern that all these statements and plans should be put in writing before the Board makes any decision.

School evacuation plans and drills were briefly discussed; noting every three years the drill is run for both the back and front entrance issue and those potential costs to the Town for additional plowing in winter. Mr. Mills advised the Board to the potential costs to the Town and believes it to be wrong to grant this in a residential area, he suggested this type of facility would be better suited in the Route 4 area of town. Chief Vilchock noted there is a date set for a back exit drill at the school for May 21, 2012. They also discussed the nature of propane in cold weather.

Chair Russo noted that the applicant has not submitted any kind of evacuation plan. He noted that he needs to see one. Mr. Cosseboom agreed to submit such a plan for the next meeting.

Discussion was on how long the applicant would need to return to the Board and what the Board would like them to present at that next meeting that would help them make their decision. Mr. Danais asked if these evacuation plans and such weren't part of the ZBA purview but a Planning Board issue. Chair Russo disagreed stating he felt it was needed for him to make a decision. Ms. Fernald asked if this was a potential conflict between Boards. The Board agreed that once they decide it would be left to the Planning Board to work on the details.

Chair Russo also asked the applicant to submit any future expansion plans and delivery plans. Mr. Cosseboom suggested a meeting with State Fire Marshall's office, Chief Vilchock and the applicant to work out the details. Chief Vilchock questioned the process of getting the Fire Marshall's office involved. Some discussion was inaudible.

Chair Russo suggested that if all parties are involved that will lead to a better resolution for all involved. Mr. Cosseboom agreed noting they have asked the State Fire Marshall's office to be involved early due to Chief Vilchock adversarial nature from the beginning. He acknowledged concerns but noted that he believes all the concerns can be addressed.

Mrs. Sears suggested the Board finish reviewing the criteria for the Special Exception, incase there are any other concerns from the Board so that the applicant is clear on what the Board is asking them to return with. The Board agreed.

Chair Russo read the applicants answers to Criteria #2 or #3. They discussed distances on the plans, buffers and the rural character of the town.

Mr. Bonser reviewed with Mr. Cosseboom the letters submitted earlier in the meeting noting each type of facility and size of operations and federal standards met in each of them. Ms. Winona suggested returning with more information of cases involving schools and the half mile radius. Mr. Cosseboom reminded the Board that they are required to meet all industry standards.

Mrs. Sears asked if Mr. Sherman the Town's fire consultant was going to have time to review the plans and if those costs are going to be paid in a timely manner. Mr. Cosseboom noted that they have questions into Mr. Sherman on previous bills but have not received answers. Mr. Cosseboom will also provide more information on other similar facilities for the Board. Discussion was on the amount of time needed to return.

Chief Vilchock requested that Mr. Cosseboom and the State Fire Marshall's office be documented. Chair Russo suggested that all parties meet to streamline the process. Chief Vilchock agreed. Mr. Danais suggested that they may be "putting the cart before the horse" that these are usually done after the ZBA decision.

Mr. Cosseboom suggested that the costs to date of the independent review have already exceeded double the amount of others. Chair Russo noted that it was up to all parties involved to get back to this Board showing that they are in agreement and everything is resolved. All parties agreed to June 12, 2012.

Dawn Fernald asked the Board to ask Mr. Davidson to recuse himself from any and all issues involving the Fernald family. It was noted that the Board can not recuse a member only a member can recuse him or herself. Chair Russo acknowledged the request and stated they will bring it to his attention if he is present at the next meeting.

Chair Russo asked Mr. Fernald if he had issue with John Morin serving as an alternate if needed. He did not but Mr. Morin declined.

MOTION by Mr. Bonser to continue this case to June 12, 2012 at 7pm.
SECOND by Ms. Winona
VOTE 4- Aye. 0- Opposed – 0-Abstained **MOTION PASSED**

MOTION by Chair Russo to table the review of the minutes until the May 22, 2012 meeting.
SECOND by Mr. Danais
VOTE 4- Aye. 0- Opposed – 0-Abstained **MOTION PASSED**

MOTION by Chair Russo to adjourn the meeting at 9:22pm
SECOND by Mr. Danais
VOTE 4- Aye. 0- Opposed – 0-Abstained **MOTION PASSED**

Respectfully Submitted,

Lisa L. Sears
Land Use Clerk

These minutes are subject to approval at a regularly scheduled Zoning Board of Adjustment meeting at which time the above minutes are corrected or accepted.