

JUNE MINUTES NOTES

All Board present. 6:35 pm

Hammond Decision--deliberation

Clarke: Has evidence that Mr. Hammond's girlfriend has acquired 125 Rice Corner Road. Don't know if we'll be able to get a straight answer from parties involved. No complaints on record.

Leahy: Other businesses in town similar to this.

Clarke: Hammond says he doesn't do general towing. Just repossession. So that eliminates similar business argument. No other recovery business in town.

Leahy: Are you thinking in same category?

Cliff: He said business won't keep cars on lot for months.

Clarke: Does planning board have power to grant a permit that requires an annual re-permit? One that would require him to come before board every year?

Kris: That might be assuming ZBA function.

Clarke: Applicant said at hearing that he can't control everything that happens on his property.

Kris: Bearing on this?

Clarke: Yes. Seems to have no ability to control what happens on his own property. Major concern is that nothing been lodged.

Kris: My problem is that the property has been there for a long time. No complaints lodged.

Clarke: "I've been shot at, etc."

Kris: Not on his property. No mention by police of incidents on his property. But am concerned about him following the rules.

Clarke: That speaks to a nighttime business in a residential area. I get complaints about working on water systems in town at night.

Kris: You would have to limit the hours. He would be free not to operate under those conditions.

Clarke: Also have to look at intent of zoning.

SAM: Are we supposed to factor in his history when looking at his business?

Leahy: Will 25 vehicles be too many for the site as it stands right now? Physically, yes. Should we allow everyone on the property to have 25 cars? No. It's a residential neighborhood. If I were looking for a business would I have picked a residential neighborhood? NO. He said he will accept conditions.

Kris: will restrictions on which driveway he uses help?

Clarke: If we close near driveway it means it will create a buffer zone.

SAM: Enforcement issue.

Clarke: Look at how long Gary held off on taking Mr. Hammond to court? And how long it took Hammond to finally come before us? I would love to know what the lawyers would say about how much going to court would cost the town. We aren't responsible for enforcing the decisions of other bodies or the Town Clerk. We are only responsible for what we do.

Looks at map of other businesses (18:00)

Leahy: Precedence should be be factored in.

Clarke: But Robby O'Keefe has no neighbors.

Leahy: But is it fair for us to turn down Hammond if he got a permit. O'Keefe was granted a SP 10 years ago.

Pulled out O'Keefe decision on Gay Road (2002). Leahy read findings. Applicant was in operation at time of application. Towing, storage, service. Rural residential zone. Hammond said that people rarely could come to his business to pick up business. O'Keefe operating 7 trips "a day." Set back far from road. Owner does not intend to expand. Not detrimental--not visible from public way (1300 ft.). Hammond--125 - 150 feet. 1/10th of O'Keefe. Use in character of district: No visual impact. Hammond_ neighbors can see it--stockade fence. Putting area aside for his cars. Traffic hazard--caution must be exercised as Gay Road is narrow.

Clarke: Falls under zoning. Offloading off-street only.

Leahy: Hammond's neighborhood sez lot of traffic. Harmful--not harmful.

Clarke: Not a valid argument for Hammond.

Leahy: Buffer zone: Hammond has proposed fencing, landscaping, trees to shield area from sight. Access: all utilities accessible. Additional safeguards: No more than 15 vehicles. (38:00) excluding personal vehicles. No boom truck (conventional tow truck) Vehicles should be screened as of the date of the permit granting. No expansion of building unless modification of decision. Bylaw does not intend to encourage business development unless special conditions granted.

SAM: Not Decision

Clarke: What kind of restrictions would be put on this if granted?

vehicles, # trips per day, permit tied to site being his principle residents, marked property lines, restrictions on lighting, hours of operation.

Clarke: He said he would limit last haul to midnight. Very close to neighbor. Last decision, no neighbors. So need to talk about before midnight. If we tell him he can't operate after 9 pm, are we effectively denying him a permit? What if he had a nighttime storage place? No decision on second property. Have to put a limit of operations, on unloading vehicles. He can drive home, but not unloading vehicles. What would be fair at night?

Kris: Last car unloaded by 10 pm. If later, then he has to wait and unload in the morning.

Clarke: Mr. Hammond chose the site at a bankruptcy auction. We still have to weigh our decision on best character of area. Would also like to see the driveway near to neighbor not used at all. Trying to create a buffer from neighbor on south side of property.

Leahy: Lowering property values?

Kris: Fencing and fruit trees.

Clarke: What is the sense of the board? Do we want to weigh in on whether we are inclined to grant the permit with conditions, or no?

SAM: I'm really on the fence. Kris: So am I.

Clarke: Parking area: 60' x 90' on plan. Could fit 30 cars in a pinch.

Kris: Limiting activity, # of trips? Not as much a problem in daytime. What about trips per day? Trips or just pickups?

Leahy: Why would he need to keep 30 vehicles on property if car carrier is coming every day?

Clarke: You have 2 different sizes--one that carries up to 1 - 5, other 5+.

Leahy: We have to be consistent with what Mr. hammond said in the minutes about his own business. I'd like to look in the minutes and see what he said.

Leahy: Restrictions on principal residence. Only operating if he is living there.

Kris: If he isn't going to live there, why would he want the business there? If it's not his residence, why would we consider approving?

Clarke: This must be the primary residence for the owner of the facility. Except that it's a residential area. If he rents out the house, we're just creating a business district. But enforcing residency is out of our hands.

Kris: # of employees. Also # of trucks. We need to restrict it.

Clarke: We should also restrict employees to present ones.

SAM: But what is an "employee" in this case? I want to consult counsel.

Kris: But not fair to do that unless we are going to grant decision. Marked property lines and restrictions to lighting. Stock fencing not acceptable; need higher barrier.

Leahy: Loading area will need to be screened, even with other fencing indicated. Eight foot where needed, six otherwise.

Kris: Can lower at road for sightlines. Also, need to mark property so he will know where his property lines actually are.

Clarke: Also, the rear bounds need to be put in so WE know what area the cars will be restricted to. Need to have means of knowing where it is.

Read letters from abutters, BOS, Tim Simon, BFD, Highway Dept.

Leahy: How can we put teeth in any decision we write?

Clarke: We could require that a favorable decision with a 30-day deadline and say it is effective only at such time when all requirements and restrictions have been met by the applicant.

BOS letter mentions putting a "substantial bond."

Kris: Need to consult town counsel as to whether we have power to write a decision with a clause

The business was not a legal business prior to 1988 and so any errors or omissions by Town Clerk or any other department

No decision yet. Meet again on Thursday June 10 at 6:30 pm. Only agenda item Hammond decision. POST Meeting TOMORROW

Ask town counsel if we decide to vote favorably? Does the issuance of a business license make a case that we should grant a SP for this same business?

Reorganization: Same as it was last

9:10 pm adjourned.

