

**TOWN OF EPPING, NEW HAMPSHIRE**  
**ZONING BOARD OF ADJUSTMENT**

**Wednesday June 17, 2009**

**PRESENT:** Dave Mylott, Paul Brown, Bob Jordan, Mike Yergeau; Alternate Patrick Pagnani; Secretary Phyllis McDonough.

**CALL TO ORDER:** Chairman Mylott called the meeting to order at 7:00 P.M., and appointed Patrick Pagnani to sit in for Nowe.

**JOE DUYON** – Chairman Mylott read notice for a Special Exception concerning Article II Section 2.5, & a Variance concerning Article II Section 2.5. Parcel is located at 581 Calef Highway (Tax Map 005 - Lot 029-001) in the Highway Commercial Zone. Abutters present: Dianne Johnson and Nancy Chase.

Joe Duyon and Charlie Goodspeed came before the board with the proposal. Duyon explained he would like to change from hobby shop to a business to a full-time business and to add an hour of operation and to be able to take in trade-ins such as four wheelers, cars, small campers, and explained he is not looking to change to a car lot but to have only one or two of these extra vehicles.

Chairman Mylott gave a time-line of events with this site. He explained Duyon originally came to the Zoning Board in July of 2006 for a special exception to sell motorcycles which was approved, then in October of 2006 Planning Board approved the site with conditions which was a limit to the ten motorcycles, back to the Zoning Board for permission to do inspections, and is now before the Board after going to the Planning Board on December 2008 and February 2009 on a lighting request. Duyon explained the lighting that he went to the Planning Board for is because of safety reasons to his site.

Goodspeed explained Duyon went to the DOT Division VI and was encouraged by the DOT to put a light at the sign of his sign at the location.

Paul Brown suggested to Duyon in the future applying for everything instead of piece mailing. Brown noted that the site is neat and clean, not cluttered and he has no concerns with the site.

Goodspeed explained Duyon has no future plans and informed the Board when the economy changed three of Duyon's businesses failed. Goodspeed explained this is a motorcycle shop and is before the Board to be permitted to sell whatever is taken in trade.

Pagnani, referring to minutes, asked what type of different vehicles are allowed. Duyon explained a boat, a car that usually comes in as a trade in. Duyon informed the Board if there are more than two vehicles they would be stored in the back of the building.

Goodspeed added whatever is within the 2,000 square feet that is allowed will be used for the display area.

Chairman Mylott read the explanation from the October 19, 2008 Planning Board meeting notes regarding the 2,000 square foot area. Chairman Mylott read for the record a letter from Ron Nowe who noted he has no problem with the request.

Abutter Dianne Grant Johnson questioned the definition of RV items, and noted she has no concerns with the approved lighted sign by DOT although would have a problem with a street light. Goodspeed explained due to a

shortage of funds at the DOT, and at this time there will not be a street light unless Duyon pays the expense. Johnson asked if the land is in current use. Duyon explained there are ten acres in current use. Johnson stated she doesn't have a problem with hours and has no issues with noise, but has concerns with more vehicles unless it is kept at a two vehicle minimum.

Chairman Mylott asked Duyon his definition of RV items. Duyon explained it could be a pull trailer, jet skis, trailer, snowmobiles, boats, pop ups. Duyon stated he does not want a large bus or anything like that. Goodspeed added recreational vehicles that fall under Class C.

Abutter Nancy Chase spoke on the first time Duyon came before the board and stated he only wanted a hobby business. She noted at that time the issue of noise came up and were assured there would be no problem. Chase stated as of now, three years later the noise of the motorcycles is annoying.

Chase the noted Duyon came before the board for permission to expand to an inspection facility, which was granted was stipulated it was against the regulations for repairs to be done. Chase stated that now Duyon is before the board for another request to have two cars, RV's and RV items displayed. Chase noted it is unclear what RV items mean.

Chase stated it is the Board that now has to decide if Duyon meets the criteria for a special exception and the five criteria for a variance. Chase then referred to the five criteria.

- I. Contrary to the public interest.**
- II. Special condition exist ....resulting in unnecessary hardship.**
  - A. The zoning restriction as applied interferes with a landowner's reasonable use of the property in its environment.**
  - B. Fair and substantial relationship exists....and the specific restriction on the property.**
  - C. Variance would not injure the public or private rights of others.**
- III. Variance is consistent with the spirit of the ordinance.**
- IV. Substantial justice is done.**
- V. Value of surrounding properties will not be diminished.**

Chase noted there is no hardship to the property and nothing unique about the property. Chase stated that the board would have to vote no as the application does not meet criteria II to sell cars, RV's and RV items and therefore the application should be denied. Chase stated she believes a used car lot will decrease the value of her abutting property.

Chase referred a home business ordinance adopted March 8, 1994 and stated it appears the business is not subordinate to the residence. Chase questioned if this is dual use situation and if so a variance cannot be granted.

Chase submitted a letter from Keith Hennerford who objects to the request by Duyon. Chairman Mylott read the letter for the record.

Chairman Mylott noted the request on the application is for a Special Exception from Article 2.5 and not a Variance. The Chairman explained what the applicant is actually requesting are the Special Exception and not a variance stating the two are very different. Chairman Mylott explained the special exception is asking for is to use the site for something different than what falls under the standard permitted use and read the seven criteria for the special exception.

Chairman Mylott closed the public session.

Jordan requested the seven criteria be discussed by the Board to see if the applicant meets them.

Pagnani asked if the application needs to be revised. Chairman Mylott explained the application does not have to have the application revised as the Board would not act on the variance would as it is not applicable.

Chairman Mylott reopened the public hearing.

Chase stated she did not understand and does not see how the board would not continue due to the way the application was advertised.

Chairman Mylott explained the notice was for a special exception and a variance, and suggested the application was done in error and that the variance is not applicable therefore the board will only address the special exception.

Chairman Mylott closed the public session.

Jordan moved, Brown seconded the motion to deny the Variance due to the fact it is a Special Exception. The motion carried unanimously.

Special Exception:

1. **That the use is so designed.....so that the public health, safety, welfare and convenience will be protected.**
  - **The Board saw no problem with this statement relating to the application.**
2. **That the use will be compatible with the adjoining development.....**
  - **The Board saw no problem with this statement relating to the application.**
3. **Adequate off street parking and loading is provided....with traffic on abutting streets.**
  - **The Board saw no problem with this statement relating to the application.**
4. **Use conforms with all applicable regulations.....for large-scale development**
  - **The Board saw no problem with this statement relating to the application.**
5. **Applicant would be required to go to the Planning Board...**
  - **The Board saw no problem with this statement relating to the application.**
6. **If application for a Special Exception for expansion of a Non-conforming.....and that the Non-Conforming Use is not hazardous by its nature.**
  - **Chairman Mylott noted this is not an expansion of a non-conforming use. The Board as a whole concurred.**
7. **For any dual use...special exception...must be a permitted use in the zone (adopted by the Town 3/12/96).**
  - **The Board saw no problem with this statement relating to the application.**

Chairman Mylott advised, if approved, an explanation has to be clear what the expectation is on what RV items are and number of vehicles allowed.

Pagnani listed the RV items used only, automobiles used only, pull trailers, four-wheelers, pop up trailers, boats, jet skis utility trailer, ski-dos, up to a Class C pull trailer up to 24 foot.

Jordan moved, Yergeau seconded the motion to grant the Special Exception and that the application meets all the seven criteria as long as the vehicles in application do not exceed Class C - RV's, not to exceed 24 foot boats, and that anything that is displayed is kept in the approved 20' x 100' sales coral.

Pagnani amended the motion to add jet skis, skidoos, pop up trailers, four wheelers, which are all used items all taken in on trade. The motion carried unanimously.

**ALTERNATE APPOINTMENT SLIP FOR SIGNATURE** - (Robert Silva) Chairman Mylott stated this will be addressed at the next meeting

**MINUTES OF 05/20/09 FOR APPROVAL** – Jordan moved, Chairman Mylott seconded the motion to approve the minutes. The motion carried unanimously.

**MINUTES OF 03/04/09 FOR SIGNATURE** – The minutes of 3/4/09 were duly signed.

**ADJOURNMENT**: Pagnani moved, Jordan seconded the motion to adjourn the meeting at 8:00 pm. The motion carried unanimously.

**APPROVAL NOTIFICATION: June 17, 2009 - Minutes of May 20, 2009 were approved. Minutes of March 4, 2009 were duly signed duly signed.**

Respectfully submitted,

Phyllis McDonough,  
Zoning Board of Adjustment Secretary

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**Dave Mylott**

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**Bob Jordan**

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**Mike Yergeau**

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**Paul Brown**

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**Patrick Pagnani**