

November 22, 2016

Approved 12/27/2016

Case # 470

Amy Stockman, Bob Theve, Mark Howard, Alicia Gettman and Tom Swift were present.

The applicant, Paul Zimmerman, 181 Middle Rd. seeks a special exception for 2 storage unit buildings on property owned by Steve Hunter.

Mark Howard opened the hearing by stating that the board will decide, without public input, if there is materially enough new information from the prior hearing to proceed with this new application. The applicant is allowed whatever amount of time necessary to convince the board that it is materially different.

Atty. Randy Walker, representing the applicant, with Jeff Lewis and Nathan Dickey, addressed the boards concerns.

He felt that at the first hearing 5 of the 6 criteria were met and the one denied was a split vote.

They have now addressed the abutters concerns, concerning visibility by rotating the building and putting in large berm.

They have now decreased the number of units in the 2 buildings from 50 - 60 to 45-55.

Yes, this is a residential zone and there are other businesses in the area. Two of the three businesses are invisible from the public. They felt this would not change the character of the neighborhood.

They have made four significant changes;

# 1 The building would now be back off the roadway 119', 40' further than previous application. # 2 The units would be turned 90 degree's , a different view when seen from the road. # 3 The berm would be longer and wider and higher with double the trees. # 4 This doubled the amount of landscaping with the 3 rows would hide the building from the road. Only one access so only visible on one side. Low profile, building is only about 12' high. The board noted that the last two changes are more planning board related and not necessarily tied to the use of the land, and the first two changes in themselves were not meaningful.

Walker felt that procedurally the board could go forward.

They realize this is a residential area with other businesses and that 2 of the 3 in close proximity the public doesn't even know they are there. It would not change the character of the neighborhood.

The building would be back 40' 119 from Middle Rd. North/South not East/ West.

Larger berm with three rows of trees to hide the buildings from Middle Rd. A low profile.

Hazardous materials: The lease would state no hazardous materials allowed. Plus the owner would have insurance that would indemnify the Town, similar to a Class V1 road sign off. There would be no outside storage.

Walker brought up the Fisher v Dover decision that was 16 years old and that it had been modified by the Supreme Court over the years. He specifically mentioned the 2008 Ossipee Lake Marina wanted a storage shed for customers. In that case the Ossipee ZBA agreed to hear the new application that was similar to the application that was heard and then approved. In reply the board noted that this was a natural expansion of an existing business and was not comparable to the startup of a new business.

Mark asked Jeff Lewis about the height now that it was turned and back into the site. He responded that it would be about 3' higher but the berm would be much higher and heavy landscaping would compensate for the potential increased visibility. Lewis showed colored renditions of what it would look like from the roadway. Much more compatible with the neighborhood. Mark reiterated that we are a use board and that the Planning Board would address the berm etc.

The height of the buildings remain the same with four or five fewer storage units, the board felt this was not a significant change in degree from the previous application.

Mark asked about 24/7 access? Lewis replied that they have not changed that, there are no lights, so they do not expect night time use. There could be security camera's. Not owner occupied.

Bob Theve still felt this changed the characteristic of the neighborhood because it is available 24/7, no security, no fencing, with 50+ tenants. He realizes it is allowed by special exception but felt it was a real risk of other businesses coming in with 24/7 hours. He felt it was a material change in a residential zone.

Walker noted that the Fire Station next door is 24/7. Most self storage units are 24/7 and not any problems. The Wolfeboro storage building owned by Zimmerman are in the residential/ commercial zone and have gotten good feedback from neighbors/abutters that this is a better use of what could potentially be there. They are making this as innocuous as possible so that the residential character remains.

Mark asked about traffic count? It remains the same. Minimal.

Mark asked if the board was ready to decide about continuing? Yes.

Bob felt the 90degree change and the larger berm was not a substantial change. Amy felt just having a few less units was not much of a change. Alicia felt they had made an attempt to change by rotating and that they should be allowed to proceed. Tom felt the changes were a good effort but it did not change the scope of the use. Mark agreed with Tom and Bob that there was not a significant change in the scope of the project even though Walker mentioned the ruling of CBDA v Thornton where the application needed to meaningfully resolve the boards previous issues and he felt it did. Mark felt it had not resolved the issues. Same as before.

Mark made a motion that they did not pass the test of materially different from the previous application therefore deny a new hearing. Bob 2<sup>nd</sup>. 4 in favor, Alicia opposed to the motion.

Hearing closed, Meeting adjourned.

Jackie Rollins, Secretary

