

DUNBARTON ZONING BOARD OF ADJUSTMENT

Monday, May 9, 2022

7:00 p.m. – Town Office

MINUTES OF MEETING

Vice Chair John Herlihy, present via Zoom, called the meeting to order at 7:02 p.m.

Attendance: Secretary Alison Vallieres, Dan Dal Pra, Jim Soucy, and Alternate Derrick Labranche
Derrick Labranche was appointed as a Voting Member in the absence of John Trottier.

Approval of previous meeting minutes: **Dan Dal Pra made a motion to approve the minutes of the February 14, 2022 meeting as written; Alison Vallieres seconded the motion. All were in favor.**

Election of Officers:

- Alison Vallieres made a motion to elect John Trottier as the Chair of the Dunbarton Zoning Board of Adjustment; seconded by Dan Dal Pra. All were in favor.
- Dan Dal Pra made a motion to elect Alison Vallieres for the position of Recording Secretary/Voting Member of the Board; seconded by Jim Soucy. All were in favor.
- Dan Dal Pra made a motion to elect Jim Soucy as the Vice Chair of the Zoning Board; seconded by John Herlihy. All were in favor.

John Herlihy turned the meeting over to the newly elected Vice Chair at this point in the meeting.

Public Hearing – Application #2022-ZBA-001, Bryan Murphy, 13 Town Farm Lane, B3-02-03, in the Low-Density Residential District. Requests a Special Exception from Article 4, Section I. Table of Uses, C. Commercial, of the Dunbarton Zoning Ordinance to allow a propane fill station at his residence for the purpose of filling propane tanks for customers and for his own bed bug extermination business.

The Vice-Chair asked if postings were done for this public hearing. It was confirmed that public notice was posted in two places, on the Town's website, and in the Concord Monitor. Alison Vallieres reviewed the list of abutters; none were present. Mr. Soucy explained the process to the applicant and asked him to read through the questions from his application.

Mr. Murphy read from his application as follows:

1. No detriment to property values in the vicinity of the proposed development will result on account of the location or scale of buildings, structures, parking areas or other accessways; the emission of odors, smoke, gas, dust, noise, glare, heat, vibration, or other pollutants; or the unsightly outdoor storage of equipment, vehicles or other materials. *The proposed location of the 1000-gallon propane tank is not visible from the neighbor to the north and partially visible from the neighbor to the south. The approximate size of the tank and fill station, 4.5' x 24' long, x 5' high, has been shown on the plot plan. There is no legal requirement for a fence; however, one will be put up to protect the tanks on-site. There are ample parking spaces near the barn and the paved area adjacent to the front yard. There will be a second driveway access, creating one-way semi-circular traffic. The only time there would be the possibility of smelling propane is when a tank is actually being filled. Other than the 1,000-gallon propane tank, smaller customer tanks and the fill station, there will be no other large items stored in the area relating to the fill station. All materials will be stored in an orderly fashion.*

2. No hazard will be caused to the public or adjacent property on account of potential fire, explosion or release of toxic materials. *Large, above-ground propane tanks are common and do not pose a threat of fire, explosion, or release of toxic materials. Propane, in both gas and liquid form, is not toxic. Propane tanks do not explode. They do not implode and nor do they rupture or come apart on their own. In fact, bringing a propane tank to the point of "explosion" is tremendously difficult and time consuming. The potential for fire would be mostly limited to human error, like smoking around a tank that has a slow leak. (Cited from: <https://www.propane101.com/propanecylinderexplosions.htm>)*
3. No creation of a traffic safety hazard or substantial traffic congestion in the vicinity of the proposed development. *I am confident that Town Farm Lane, my driveway, and all the available parking spaces will keep congestion to a minimum. I do not believe that customer traffic will impart Route 13 or Country Club Lane. A demand prediction based on Dunbarton population, percentage of those with gas grills, the number of tank refills per year, those serviced by this fill station, etc. would equate to approximately 16 tank fills per day.*
4. No excessive demand on municipal services and facilities, including, but not limited to waste disposal, police and fire protection and schools. *The only "waste" that is generated by a propane fill station is expired propane tanks which can be recertified or recycled at the Dunbarton Transfer Station. No impact is foreseen for the police and fire departments, school, or the road as it is a private road that is not serviced by the Town. John Herlihy left the meeting at this point. Jim Soucy asked about the disposal of expired tanks. Mr. Murphy said he would charge his customer a disposal fee that would cover the cost of him taking it to the transfer station if they did not want to take it themselves.*
5. The proposed use will not result in the degradation of existing surface and groundwater water quality standards, nor will it have adverse effects on the natural functions of wetlands on the site which would result in the loss of significant habitat or flood control protection. *There would be no impact on existing surface and groundwater water quality standards, nor will it have adverse effects on the natural functions of wetlands on the site which would result in the loss of significant habitat or flood control protection.*

Jim Soucy asked about a note in the general notes section of the plot plan, referencing a lawsuit from 1999. Mr. Murphy said he asked that the note be included on the plan. He explained that there was a question of ownership of Town Farm Lane going on between the Burnhams and Mazalewskis when his parents purchased the house in 1999. He said Town Farm Lane was abandoned beyond his house, and it was concluded that the abutters own to the middle of the road. He pointed out the location of the second driveway entrance that he is working on, noting that the issues were resolved, and he just wanted the reference on the plan in case it was questioned. He said there were two conclusions, one as to the ownership of the road and, a couple years later, one as to who can use the road.

Jim Soucy asked if the opening in the stone wall shown on the plan is where customers would enter. Mr. Murphy said that was correct, and they would proceed clockwise, noting that would put the driver right next to the fill station. He explained that they can come down his driveway and park until that access is completed. Dan Dal Pra asked Mr. Murphy if he thought the additional traffic and entering via the new access would be a problem on the once disputed section of the road. Mr. Murphy said he does not see a problem, adding that he has talked with the Canons on the other side of the road. He said it would be the same as right now, only going 20' past the current driveway. Alison Vallieres asked about the width of Town Farm Lane. Mr. Murphy said he believes it is 30' wall to wall. He explained that the pavement coming off Route 13 is quite wide, Country Club Lane veers to the left, and Town Farm Lane stays straight, becomes dirt and narrows some.

Jim Soucy asked what activities are conducted in the home now for the business. Mr. Murphy said they are bed bug exterminators, using heat to kill them. He said they used approximately 3,000 gallons of propane last year, and it makes financial sense for them to go wholesale and fill their own tanks instead of going to somewhere like Ace Hardware every time. There is no extermination done on the property; they take their equipment and travel to the locations. Currently the only employee is their son, who is typically picked up on the way to a job but sometimes comes to the house.

Jim Soucy referred to a stonewall on the plot plan, asking if there is any plan to move the wall or widen the opening for the travel lane. Mr. Murphy said there is no plan to move the wall as it is very spacious, probably two cars wide, and the new access would be a nice wide opening and easily navigable. Mr. Soucy asked about a square that is shown off the front corner of the lean-to. Mr. Murphy explained it is a concrete drain with a steel grid that leads to a culvert. Mr. Soucy asked what type of fence would be put around the tank. Mr. Murphy said H R Clough has told him there is no legal requirement for fencing, and the rock wall would be sufficient for the protection of the tank. He said the fence would be to secure tanks within an enclosure. He explained that the fill station is a lockable console. The fencing, with an entry gate, would be to protect the whole set up, including the big tank, the pump, and any little tanks. Jim Soucy asked how bigger tanks, such as 100#, would be handled. Mr. Murphy said they would be filled the same way, although very heavy, and the customer would need to have a solution for that. Mr. Soucy said he was thinking of the logistics of getting those tanks up and over the stonewall. Mr. Murphy said there would be a 20' to 30' line for filling the tanks. The tanks would have to be taken out of the vehicle, placed on the ground, and filled. At this point he does not expect to have a scale; the tanks would be filled to the bleed screw and charged by the gallon. He said he may put some nit-pac down for an entryway path in the event they need to get the tanks closer.

Dan Dal Pra spoke about dealing with toxic materials and asked the applicant if he would consider having the fire chief visit the site before opening for business. He said he would like to know there is enough access for emergency vehicles if there are customers there. He said a letter from the fire chief would be appropriate. Mr. Murphy said he feels there would be sufficient access, especially with the two accesses. Jim Soucy said he knows there are overhead foam suppression systems at a gas station but is not sure if something like that is required in this situation with customers coming to private property. He said he would be more comfortable with some type of fire suppression. Donna said the applicant still has to go before the Planning Board for site plan review, if approved for the special exception, and a lot of this information would be covered there. She spoke with the fire chief who said he is all set with the layout as long as everything is done to NFPA standards. Alison Vallieres said she would like to hear from Jon Wiggin with some sort of input from the fire department. Jim Soucy said he does feel these details relate to the use. He asked Mr. Murphy if he has any estimate of the number of new tanks he plans to have on hand to sell or exchange. Mr. Murphy said he is not sure of the quantity but does plan to have spare tanks on hand for those who might show up without a tank, planning to buy one, or an expired tank. Mr. Murphy said H R Clough will furnish, own, set up, and maintain the system.

Jim Soucy asked if the second entrance would need the Road Agent's review. Donna said it would not as it is on a private road. Alison Vallieres asked who maintains the road in the winter. Mr. Murphy said the four residents split the bill. Dan Dal Pra asked if the fence and access road are the kind of things that show up during Planning Board review. Donna explained that the site plan review would include the plot plan, directional traffic, parking, signage, etc. Alison Vallieres said she feels the use is dependent on the adequacy of the road and emergency access. Mr. Murphy said it is currently plenty wide, and the new lane makes it even better.

Vice Chair Soucy stated that no abutters are present. Mr. Murphy said the lack of abutter presence would seem there are no concerns. He said he spoke with Jon Cannon and Ben Horn; both were okay with the proposal. Alison Vallieres noted that Mr. Murphy mentioned during a conceptual consultation with the Planning Board that he might be buying a small moving company, and she wonders where that would fit in this plan. Mr. Murphy said he decided not to buy the business, so it is a moot point. Dan Dal Pra asked the applicant if he has a business plan with hours of operation and number of employees. Mr. Murphy said he has a loose plan and would probably still pursue the fill station for his own use if the public use is not approved. He said the plan is to keep it simple, him, his wife and son, probably Thursday and Friday evenings and Saturday. Mr. Dal Pra asked if there would be signage. Mr. Murphy said he had no plans for signs, other than maybe directional signs at the property. He said he would use social media, contacts, and word of mouth.

Jim Soucy spoke about the commercial section of the Table of Uses, noting that a special exception is needed for all types of businesses, any number of which could be using fuel. He said the difference here is that customers are coming in close proximity to flammable product. He said the applicant stated the use would not be detrimental to neighboring property values, however, he would like to see the opinion of an appraiser or realtor on that point. Alison Vallieres said she would like more information from the fire chief on the access of emergency vehicles on Town Farm Lane. She said it would be nice to have something in writing from the two abutters. Mr. Soucy said the abutters were

noticed, and there was no response from them. He said he has concerns similar to those of Alison. He said Board members have a complete application and photos which are helpful. He said the actual use does not seem to be a far stretch from other businesses in the list, and conditions could be listed in a motion. Mr. Soucy said he would feel more comfortable with an onsite review by the fire chief to make sure the existing driveway is adequate.

Hearing no further discussion, the Vice Chair said he would entertain a motion. **Alison Vallieres made a motion to continue the public hearing to the next meeting, allowing time to get feedback from the fire chief and the answers to members' questions; seconded by Dan Dal Pra. All were in favor of the motion.** Donna was asked to facilitate input from the fire chief regarding the number of tanks that can be stored per code/NFPA, the current driveway access, the assessment of fire suppression, and any other information he may feel is relative to the proposal. The next meeting is June 13, 2022, 7:00 p.m. in the Town Office Meeting Room. There will be no further notification. The Vice Chair asked for a motion to close the public hearing. **Alison Vallieres moved to close the public hearing; Derrick Labranche seconded the motion. All were in favor.**

Adjournment: The Board having no further business, **Dan Dal Pra made a motion to adjourn the meeting at 8:25 p.m. Alison Vallieres seconded the motion. All were in favor.**

Respectfully submitted,

Donna White, Office Administrator