

**TOWN OF POMFRET
ZONING BOARD OF APPEALS
PUBLIC HEARING & SPECIAL MEETING MINUTES
THURSDAY, APRIL 26, 2007 AT 7:00 PM
POMFRET SCHOOL, 398 POMFRET STREET
CENTENNIAL AUDITORIUM**

In Attendance: Board Members-James Robbins, Gary Kendall, Elizabeth Cartier, Robert Bitondi, First Selectman James Rivers, ZEO Ryan Brais, approx. 30 citizens. Board Members not present: R. Galante, B. Hull, B. Shay, B. Jessrun.

- I. PUBLIC HEARING** – Hearing opened at 7:15 PM by J. Robbins
1. Appeal of February 9, 2007 Decision of ZEO regarding Non-Conforming Use at 34 Wetherbee Road – Attorney Mark Branse was present for the appellants. He asked for input from the public before he summarized. F. Fay submitted a letter dated April 26, 2007 with a one page attachment. Letter summarized verbally by J. Robbins. R. Lussier commented on some of the photos in the file, indicating impressions where trucks had been parked. Attorney Ken Slater spoke of bankruptcy statements and the fact that Mr. Lussier stayed in control and possession of vehicles. Vehicles were parked at 34 Wetherbee typically at the end of the business day. The appellants statements are based on memory and innuendo. He stated the Board could not rule against the ZEO unless the determination is made that he and Mr. Lussier are lying. There has been no attempt to create a business, but an attempt to improve the property in terms of where the vehicles are parked. Tom Garrett stated that Mr. Lussier has been there, the trucks are just not there every night. Carole Rogers, nearby Paine Road resident, submitted a letter dated April 26, 2007 and read it into the record indicating belief that trucks were not present prior to zoning and the reasoning behind her thinking. Discussion regarding which truck was owned when and the size of trucks. Bev Champany pointed out photos that were submitted that are stamped January 2003 showing trucks on the property. Bill Wentworth submitted photos of a red utility truck into the record. He said this was first seen with a pick-up truck in 2003. David Abbamonte stated that if the aerial photos are compared it looks like logging trucks are parked on the W. Thompson Road property, it is not clear at Wetherbee Road. When residents of Wetherbee Road bought their properties they believed this to be a residential subdivision. Mr. Slater stated that although Mr. Lussier owned property in Thompson it doesn't mean he didn't park in Pomfret. He moved to Pomfret, he brought the trucks with him. Mr. Branse stated it is the attorney's job in these instances to stay impartial and

objects to statements that reference to overturn the ZEO decision is to indicate Mr. Lussier is lying. The debate is what use was established prior to zoning, where are the documents. Mr. Branse submitted for the record a transcript of the March hearing as completed by Mrs. Wentworth and reviewed some of the statements made during that hearing. He put Mr. Abbamonte under oath, at his own request, to make a statement regarding a conversation he had with Mrs. Champany in roughly January. He had said he had no recollection of log trucks and Mrs. Champany had no objections. Mr. Branse then asked Ryan Brais about his time working at Pizza 101 and his frequency of visiting 34 Wetherbee Road and the trucks he may remember seeing there. Mr. Branse stated they were not asking that Mr. Lussier be shut down, but keep it as what it was before – 2 trucks, 1 driver, no equipment. Mr. Slater asked if Mr. Lussier would object to being put under oath regarding statement of equipment there before zoning. He put Mr. Lussier under oath and listed equipment in the ZEO letter of February 9, asking him if that equipment was at 34 Wetherbee Road prior to zoning. He stated it was. Mr. Slater stated that Mr. Lussier's business will be destroyed if he has to move the trucks. Mr. Branse stated that he felt he had covered all points, if the Board found a non-conforming use for the pick-up truck, service truck, and red tractor, he and his clients would accept. They just don't want storage for commercial equipment. J. Robbins asked if the Board had any further questions for the public. R. Bitondi asked about where registrations and property taxes were prior to zoning. Mr. Lussier stated that when he moved to 34 Wetherbee Road he still had an address at 30 Crabtree Lane in Woodstock where the office had been kept. He switched when the registrations came up for renewal, not when he moved. G. Kendall asked Ryan about his knowledge of equipment in Thompson before his ruling and noted that the move from there seemed to correlate with extra traffic. G. Kendall noted that 2003 is noted. He asked why neighbors hadn't complained in previous two years. B. Lussier stated the complaints began after he sought a driveway permit and while he was working a job in the area, where he brought the logs home to load on the gravel, feeling this was a safer place to do so. The neighbors suddenly saw all the equipment at once due to this job being so close to home. Mr. Wentworth stated that he originally complained in July and feels there has been an increase in equipment since July. Some discussion as to the time of day trucks come and go. Mr. Lussier stated that no equipment has been added. It has remained the same except for a trade of one piece for another. Discussion of type of truck traded and type of replacement. There were no

further questions. Liz Cartier stated that she had reviewed the tapes and all the written documentation submitted at the last meeting. R. Bitondi moved to close the public hearing. L. Cartier seconded. All in favor. Public Hearing closed.

II. REGULAR MEETING

1. Seat Alternates – J. Robbins moved to seat L. Cartier for B. Shay and R. Bitondi for B. Hull. G. Kendall seconded. All in favor.
2. Citizen's Comments - None
3. Items to Add to Agenda - None
4. Approve Minutes of March 19, 2007 – G. Kendall moved to approve as presented. R. Bitondi seconded. All in favor.

III. CURRENT BUSINESS

1. Appeal of February 9, 2007 Decision of ZEO regarding Non-Conforming Use at 34 Wetherbee Road – G. Kendall stated he does not feel anyone is lying. He just feels there are two viewpoints concerning this issue, with which the Board agreed. G. Kendall made a motion stating "due to the significant increase in both the number of vehicles and types of equipment over those acknowledged by both sides to have been present in February of 2003, and the resultant traffic and it's negative impact on the character of the neighborhood and the quality of life of it's residents, the ruling by the ZEO that this constitutes a legal, non-conforming use is reversed." R. Bitondi seconded. Discussion. J. Robbins stated that the role in zoning is to protect property owners. Discussion of legal use and location of registrations and property taxes, discussion of photographs submitted. G. Kendall read the motion again and motion called to vote. Four in favor. Zero opposed. Motion passes with a unanimous vote to reverse the decision of the ZEO.

IV. NEW BUSINESS

- a. Correspondence - none

V. OLD BUSINESS

1. ZBA Attorney – Discussion - tabled

VI. OTHER BUSINESS

1. Agenda items for next meeting – Due to a scheduling conflict the meeting of May 21st will be canceled and a special meeting scheduled for May 24th. T. Garrett asked if an additional citizen's comments could be added.
2. Citizen's Comments – T. Garrett asked if the Board agreed there was a non-conforming Home Occupation at Wetherbee Road. He stated that the decision seemed to indicate an increase in traffic and inventory. There are inventory guidelines with the Regulations that allow for some expansion. Was that considered?

VII. ADJOURNMENT – G. Kendall moved to adjourn. R. Bitondi seconded. All in favor. Meeting adjourned at 9:45 PM.

Respectfully submitted,
Bonnie Ryan, clerk

dated approved _____