

MINUTES
PEMBROKE ZONING BOARD OF ADJUSTMENT

September 9, 2009 Approved 9/28/09

MEMBERS PRESENT: William Bonney, Chair; Bruce Kudrick, Vice Chair; Dana Carlucci, Tom Hebert, Tom LoPizzo

ALTERNATES PRESENT: Mark Simard

EXCUSED: Mick Pinard, Paul Paradis

STAFF PRESENT: Everett Hodge, Code Enforcement Officer; Susan Gifford, Recording Secretary

Chairman Bonney called the meeting to order at 7:00 p.m.

PUBLIC HEARING

Case #09-17-Z

Applicant: Lisa Mills dba Nicole's Greenhouse
 311 South Main Street
 PO Box 1478
 Concord NH 03302

Property Owner(s): Angela Webster
 Real Estate Unlimited, Inc.
 13430 Stewart Road
 Galveston, TX 77554

Property Address: 91 Sheep Davis Road
 Pembroke, NH 03275
 Tax Map 561 Lot 6-1 located in the C1 Commercial/Light Industrial and the
 AC Aquifer Conservation districts

Case 09-17-Z A request has been made for a **Motion of Rehearing** of **Case #09-13-Z** of the Pembroke Zoning Board of Adjustment held on July 27, 2009 under §143-120.1, **Motion for rehearing**. The applicant, Lisa Mills, dba Nichole's Greenhouse, would like to appeal condition #4 as set forth in the **Notice of Decision** for **Case #09-13-Z** dated July 27, 2009. The Pembroke Water Department has been advised of our practices regarding fertilizer use and they do not have any concerns for the aquifer relating to fertilizer use on the property. The property is owned by Real Estate Unlimited, Inc., 13430 Stewart Rd., Galveston, TX. 77554. The property is located at 91 Sheep Davis Road Map (561) Lot (6-1) in the C1 Commercial/Light Industrial Zoning District and the AC Aquifer Conservation District

Mr. Everett Hodge confirmed that all abutters were notified and that cards were received back from all abutters.

Chairman Bonney opened the public hearing at 7:05 p.m.

There were 5 regular members and 1 alternate member; therefore, there was a full five member board present for this hearing. Chairman Bonney explained the rules of the hearing.

Tax map information, a copy of the assessment card, a certified letter dated August 26, 2009 from Angela Webster authorizing Lisa Mills dba Nicole's Greenhouse to function as her agent before the Planning Board and Zoning Board of Pembroke. Also, a copy of the July 27, 2009 Notice of Decision and pending minutes of July 27, 2009 were provided to ZBA members. University of Georgia Cooperative Extension Water Recycling and Water Reuse Assessment, and HRI Update Clean water issues for nurseries articles were included in ZBA member packets.

Lisa Mills dba Nicole's Greenhouse , PO Box 1478, Concord NH stated that the Notice of Decision dated July 27, 2009 contained six conditions. She is appealing condition #4 regarding no fertilizer use anywhere on the property. Lisa stated that she only grows for a limited time. This condition could limit her business opportunities in the future. The main growing season is February through April, Lisa has not grown during the past two years. She would like to have the ability to grow plants on the property. The condition would not allow her to buy pre-finished specialty products either. Fertilizer is not inexpensive, and it also contains nitrates and phosphorous which are "food" to the plants.

Regarding condition #3, Lisa Mills stated that she would not be installing any 500 gallon fuel oil tanks, as she will be using National Grid natural gas to heat the greenhouses instead. Regarding condition #2, Lisa Mills stated she will be hooking up to town sewer rather than using the existing septic system.

Motion: Bruce Kudrick moved to approve a rehearing, and to conduct an immediate hearing tonight, on the appeal of condition #4 of Notice of Decision Case #09-13-Z of the Pembroke Zoning Board, dated July 27, 2009 regarding a Special Exception to erect four commercial greenhouses at 91 Sheep Davis Road, Map 561 Lot 6-1 in the Commercial/Light Industrial and Aquifer Conservation Districts.

Notice of Decision #09-13-Z has the following conditions:

1. Maximum number of greenhouses will be 4.
2. Must provide a letter from a licensed septic designer that the existing septic system is adequate for the intended use.
3. Each 500 gallon fuel oil tank must have be installed per **Section 143-68 E Special Use Permit** subpart (2).
4. **No fertilizer will be used on plants, trees, or shrubs or anywhere else on the property.**
5. Must follow all guidelines of Section 143-68 Aquifer Conservation (AC) District in the day to day operation of the greenhouse.
6. Must follow all applicable State and Town regulations.

Dana Carlucci seconded.

VOTE: TOM L- Y DANA - Y BRUCE- Y
TOM H Y BILL - Y

MOTION TO GRANT A REHEARING AND HEAR TESTIMONY TONIGHT ON APPEAL OF CONDITION #4 ON NOTICE OF DECISION APPROVED ON A 5-0 VOTE

Chris Culbertson, 313 Academy Road, Superintendent of Pembroke Water Works, stated that he met with Lisa Mills on July 18, 2009 to discuss concerns about water uses on the property in the aquifer. Chris wrote a letter dated August 13, 2009 to the Pembroke Planning Board outlining the fertilizer situation as described by Lisa Mills. The scenario is that small amounts of fertilizer are mixed with water and injected into the plants using a Dosatron system that is 90% water and 10% fertilizer. Small amounts of fertilizer are used in a controlled setting. Best Management Practices require that Pembroke Water Works define water uses on all the properties in the Aquifer Conservation District. They must inspect, educate, and identify potentially dangerous substances. Any potentially dangerous substance must be reported to NH DES. An existing water line servicing the existing building with an existing well shall remain in place and can be used for irrigation to the greenhouses. Town water will provide service to the house, and the existing artesian well will be used for watering. The two sources of water (town and well) must remain separate and not be interconnected in any way. Both sources must have a backflow preventer (RPZ) installed since water is servicing a commercial property. An existing subsurface system must be discontinued and a connection to town sewer be made. Pembroke Water Works is pleased the applicant has decided to connect to natural gas currently available on Sheep Davis Road. Use of fertilizer in small doses is approved based on 15-16-17 nitrogen fertilizer as described. Pembroke Water Works is required to do a full inspection of every property in the aquifer every three years, but does window inspections much more often because the pump station is located on Route 106. Chris Culbertson stated that there could be worse uses on the aquifer than greenhouses.

Lisa Mills described the Dosatron fertilizer system. It uses a mixture of water and fertilizer in a small 5-10

gallon tank. A set dosage feeds the plants through irrigation lines. The fertilizer runs for 15 minutes maximum and the plants are fertilized every 10-14 days during the growing period. Chris provided a pamphlet on the system. All of the fertilizer goes to the root of the plant during application. In Pembroke Water Works opinion, Chris Culbertson has no problem with the fertilizing plans presented to date. Chris Culbertson commended the Pembroke Zoning Board of Adjustment for considering how important the aquifer is to the residents of the town, and stated he appreciates their support. Recently, Pembroke water tested as having zero iron and manganese. Bruce Kudrick asked about the Sewer Department moratorium on new sewer connections, and how Lisa Mills was able to secure a connection. Harold Martin explained that the sewer department has set aside 40 units, enough for failed septic systems along Route 106, and this is a failed septic system.

Chairman Bonney summarized the case. Case 09-19-Z is a rehearing on condition #4 of the Notice of Decision on Case #09-13-Z dated July 27, 2009. This condition stated that “No fertilizer will be used on plants, trees or shrubs or anywhere else on the property at 91 Sheep Davis Road, Map 561 Lot 6-1.” Lisa Mills stated this restriction could limit her business opportunities in the future, and she would like the ZBA to reconsider the condition. The Zoning Board of Adjustment made a prudent decision on July 27, 2009 based on the information available at that time. The condition was put in so the use would not poison the aquifer. Lisa Mills stated that fertilizer is considered plant food, and in the small quantities used by the Dosatron system, there would be no negative repercussions on the aquifer. Lisa Mills has decided to use natural gas to heat the greenhouses and will not have any fuel oil tanks on the property. Pembroke Water Works agrees that the small amount of fertilizer used a small portion of the year as described would not harm the aquifer. NH Department of Environmental Services requires Pembroke Water Works to do full inspections of every property on the aquifer every three years. The main line is monitored on almost a daily basis. Ms. Mills guarantees that the two water sources (artesian well and town water) will not be commingled. In reality, the amount of fertilizer is small, mixed up with water in 5-10 gallon tanks one batch at a time based on parts per million (fertilizer to water ratio). The powder form of fertilizer comes in 25 pound bags, and the applicant stated that six 25-pound bags would be used on a yearly basis. The fertilizer bags will be stored properly in the basement. The Dosatron system feeds plants using an injection system.

There being no further input, Chairman Bonney closed the public hearing at 7:27 p.m.

Deliberations: Tom LoPizzo stated that as a Board, we considered the request for a rehearing based on new information. We allowed the hearing to occur tonight, and heard new information from Pembroke Water Works and from Pembroke Sewer Department. The applicant is no longer planning to use or store fuel oil, and instead will use natural gas to heat the greenhouses instead. The decision made to include condition #4 in the Notice of Decision on July 27, 2009 was based on the information available to us at that time.

Motion: Bruce Kudrick moved to remove condition #4 from Decision on Case #09-13-Z after review of further information provided by the Pembroke Water Works, and to allow use of fertilizer on plants, trees and shrubs at 91 Sheep Davis Road, Map 561 Lot 6-1 in the Commercial/Light Industrial and Aquifer Conservation District.

Notice of Decision Case #09-13-Z of the Pembroke Zoning Board, dated September 9, 2009 regarding a Special Exception to erect four commercial greenhouses **now reads:**

1. Maximum number of greenhouses will be 4.
2. Must provide a letter from a licensed septic designer that the existing septic system is adequate for the intended use.
3. Each 500 gallon fuel oil tank must have be installed per **Section 143-68 E Special Use Permit** subpart (2).
4. Must follow all guidelines of Section 143-68 Aquifer Conservation (AC) District in the day to day operation of the greenhouse.
5. Must follow all applicable State and Town regulations.

Dana Carlucci seconded.

DISCUSSION: The previous conditions were a prudent decision by the Zoning Board of Adjustment based

on the information available to the ZBA at the time.

VOTE: TOM L- Y DANA - Y BRUCE- Y
TOM H Y BILL - Y

MOTION TO REMOVE CONDITION #4 FROM NOTICE OF DECISION APPROVED ON A 5-0 VOTE

MINUTES OF PREVIOUS MEETINGS

Motion: Dana Carlucci moved to approve the minutes of August 31, 2009 as amended. Tom Hebert seconded.

VOTE: BRUCE- Y TOM L - Y DANA -Y
TOM H - Y BILL - Y

MINUTES OF AUGUST 31, 2009 APPROVED AS AMENDED ON 5-0 VOTE.

OTHER

Date of next ZBA meeting – The September 2009 meeting will be on Monday, September 28, 2009.

ADJOURN Motion: Bruce Kudrick moved to adjourn. Tom Hebert seconded. Vote was unanimous in favor of motion. Meeting adjourned at 7:35 p.m.

Respectfully submitted,

Susan P. Gifford
Recording Secretary