



TOWN OF BOW

Zoning Board of Adjustment

10 Grandview Road, Bow, New Hampshire 03304

Phone (603) 223-3970 | Fax (603) 225-2982 | Website www.bownh.gov

DRAFT MINUTES

May 19, 2020

The Town of Bow Zoning Board of Adjustment met on Tuesday, May 19, 2020 at 7:30 PM via Zoom. Chair Harry Hadaway called the meeting to order with a roll call introduction of the Board.

Members present were Harry Hadaway, Chair, Robert Ives, Vice Chair, Donald Burns, Secretary, and Stephen Buckley., Tony Reynolds and Maya Dominguez were excused. Also present were Matt Taylor, Community Development Director and Alvina Snegach, recording secretary.

Mr. Hadaway stated everyone present will be voting, and read the virtual meeting checklist into the record. Then Mr. Hadaway, on behalf of the Zoning Board of Adjustment, expressed sincere condolences and paid a tribute to Tom Fagan, a longterm Town of Bow resident, who held multiple volunteer positions with the Town Boards and organizations since he moved to Bow in 1976.

Then Mr. Hadaway directed the attention of the Board to Agenda item I.1.

PUBLIC HEARINGS

APPEAL OF ADMINISTRATOR’S DECISION

Case #101-20 Applicant/Owner: Stanley Emanuel (c/o Orr & Reno, P.A.). Appeal of the Administrator’s decision that (1) storage of empty dumpsters constitutes use of property as junkyard and (2) that site plan review is required. Zoning Ordinance Articles: 5.11 - Table of Use (Junkyards), 13.02.A – Interpretation of the Ordinance. Subject property is located at 345 River Road, Block 2, Lot 204-A1 in the Industrial Zone (I-2).

Mr. Hadaway read the item into the record and asked if there was anyone there to present on the case. Laura Hartz from Orr & Reno introduced herself as the Attorney for Stan and Pete, Inc. Ms. Hartz requested that the application be heard at the next Board meeting in June, if it is held in person, as there are two people who they would like to testify before the Board on behalf of Stan and Pete, Inc. and they would rather do this in a regular meeting than via Zoom.

Mr. Burns made a motion to continue the public hearing for the application #101-20 to the next month. Mr. Buckley duly seconded and motion passed 4:0 by a roll call vote: Mr. Burns – yes; Mr. Buckley – yes; Mr. Ives – yes; and Mr. Hadaway – yes.

SPECIAL EXCEPTION

Case #102-20 Applicant/Owner: T.F. Bernier Inc./Keller Products Inc., request for a Special Exception to operation an excavation. Property is located at 9 Gordon Road with access through 10 Noyes Lane. Block 2, Lots 184-A and 187-A in the I-2 (General Industrial) zone. Zoning Ordinance Articles: 5.11 - Table of Uses; 7.14 - Excavation of Earth Materials; 13.02.C - Authorization of Special Exceptions.

Mr. Hadaway read the item into the record and read in the comments received from the Bow Conservation Commission (size of operation being only slightly under the requirements for the Alteration of Terrain Permit by the state; whether any excavating was done within past 10 years on the lot; possibility of blasting and dust, and how these would be addressed; and the application of

1 state and local standards); the Building Inspector (the need to clean up the junk currently placed on
2 the lot); and the Public Works Director (the need to address the pile of junk in the Town right of way
3 at the end of Gordon Road).

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5 Timothy Bernier with T.F. Bernier, Inc. introduced himself as the engineer for the project and noted
6 that he is with Jeff Knight who will be managing the operation for the Keller Products excavation.
7 Mr. Bernier went over the plans and described the details such as access, the area proposed to be
8 excavated, types of materials to be pulled, and the way the operation will be run and for how long. He
9 then went over the special exception criteria one by one and addressed AOT threshold comments by
10 the Town officials. The intent of the operation is to clean up the site for it to be more suitable for
11 further industrial/commercial development (which is its intended use) and to maximize the amount of
12 material taken offsite while minimizing the disturbance. Mr. Bernier also noted that a site walk took
13 place at the property and addressed the concerns about a 50 foot undisturbed buffer in case of a
14 disputing abutter, which is the Audley property, which also has a small excavation on their lot that is
15 within the 50 foot buffer as well. Mr. Bernier said he is in contact with the abutter and is not
16 anticipating any disputes.

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18 Then Mr. Bernier answered questions about the comments from the Conservation Commission and
19 the Town officials. He noted that the equipment on the lot itself belongs to someone who is leasing
20 the land from Keller Properties. Keller will be addressing the issue with the renter. The owner of junk
21 in the right of way at the end of Gordon Road is unknown to Mr. Bernier and Keller will not be able
22 to address that as it is not on its property. He also said there will be no need for blasting and that the
23 dust will be addressed, if any, as Keller products owns a manufacturing plant very close, which will
24 not tolerate any dust in its vicinity. Mr. Bernier also noted that he was not aware of any excavations
25 being done on the lot within the past 10 years, and that the restoration bond would be set in the
26 amount of \$5000.

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28 Mr. Hadaway opened the public hearing at 8:07 PM and having nobody there to address the Board,
29 closed it at 8:07 PM.

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31 Mr. Burns stated that he would like to let everyone know that Keller Products was one of his clients
32 over 20 years ago and that he has not done any work for them ever since, thus he believed there was
33 no conflict of interest.

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35 Discussion ensued about the signature on the application and the need for an official authorization
36 from Keller for Mr. Knight. Also discussed was the need to clean up the junk on the property and
37 whether making approval conditional upon it would make sense. Then the members talked about the
38 bond setting and its acceptance process by the Board of Selectmen. The amount of \$5000 was
39 discussed and how it was arrived at. Possible conditions of approval were also deliberated.
40 Then the members went over each Special Exception criterion and voted by roll call:

- 41
42 a. The use requested is specifically authorized in the Ordinance

43 met: _____ 3:0
44 DB, BI, SB (met)

- 45
46 b. The requested use will not create undue traffic congestion or unduly impair pedestrian
47 safety;

48 met: _____ 3:0
49 DB, BI, SB (met)

c. The requested use will not overload any public water, drainage, or sewer system or any other municipal system, nor will there be any significant increase in storm water runoff onto adjacent property or streets;

met: _____ 3:0
DB, BI, SB (met)

d. The requested use will not create excessive demand for municipal police, fire protection, schools, or solid waste disposal services;

met: _____ 3:0
DB, BI, SB (met)

e. Any requirements and standards for the use as set forth in Article 7, Supplementary Regulations and Standards for Specific Uses, of this Ordinance are fulfilled;

met: _____ 3:0
DB, BI, SB (met)
(all voted met with conditions)

f. The requested use will not create hazards to the health, safety, or general welfare of the public, nor be detrimental to the use of or out of character with the adjacent neighborhood;

met: _____ 3:0
DB, BI, SB (met)

g. The proposed location is appropriate for the requested use; and

met: _____ 3:0
DB, BI, SB (met)

h. The requested use is consistent with the spirit and intent of this Ordinance and the Master Plan

met: _____ 3:0
DB, BI, SB (met)

Mr. Buckley made a motion to grant the Special Exception to authorize the excavation at the property located in the I-2 District at 9 Gordon Road (Block 2 Lot 184-A) with access through 10 Noyes Lane (Block 2, Lot 187-A) under Section 5.11.H of the Bow Zoning Ordinance governing industrial uses, subject to the condition that that no permit will be deemed issued until such time as:

a) the non-conforming junk on the property is removed in conformance with the zoning ordinance; and

b) the applicant has posted a required reclamation bond pursuant to section 7.14.E2 of the Bow Zoning Ordinance.

Mr. Ives duly seconded.

Discussion ensued about the bond amount and *Mr. Buckley amended the motion to include the bond amount of \$5,000 dollars. Mr. Ives seconded the amended motion.*

Mr. Burns also added that excavation should be performed in compliance with state and local standards and regulations. Mr. Buckley amended his motion to also say that *upon compliance with these conditions, and issuance of the permit, all excavation shall be done in full compliance with Bow Zoning Regulations related to excavation and RSA 155 – E, as reflected in the notes on page two of the plan provided by Mr. Bernier. Mr. Ives seconded this amendment as well.*

Motion passed 3:0 by a roll call vote: Mr. Ives – yes; Mr. Burns – yes; Mr. Buckley – yes.

DRAFT ZBA Minutes for 05/19/2020 Meeting

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REVIEW OF MINUTES: 01/21/2019

Mr. Hadaway read the item into the record. Minutes were reviewed and no changes were made. *Motion was made by Mr. Ives to approve the minutes as presented, duly seconded by Mr. Buckley, and passed by a 3:0 roll call vote: Mr. Ives – yes; Mr. Burns – yes; Mr. Buckley – yes..*

Motion made by Mr. Hadaway, duly seconded by Mr. Buckley, and unanimously voted to adjourn the meeting at 7:28 PM.

Respectfully submitted,
Donald Burns, Secretary.