**LANDGROVE PLANNING COMMISSION/ZBA**

Minutes of Meeting (Draft)

June 18, 2020

**Attending:**

Harry Lux Mary Licata Jerry Hassett

Joshua Wengerd Michael Morfit

William Goodwin (Zoning Administrator)

Merrill Bent (Town Attorney)

In addition, 17 members of the public participated as noted in the attached list of participants.

The meeting was called to order at 5:32 pm, with 5 Commissioners and the Zoning Administrator present.

The only item of business was a duly warned public hearing on an application by Blue Flame Gas Co. for a conditional use permit to establish an office and service center, including installation of a 30,000 liquid propane gas storage tank, at 3 Valley View Drive.

**1. Chair’s Opening Statement**

In accordance with the Governor’s emergency decree regulating public gatherings and recent amendments to the state’s Open Meeting Law, this hearing was convened using an online conference app (Zoom). Information about the meeting and how to participate was included in all public announcements and warnings. Participants received information on the Zoom meeting in advance. All participants confirmed that they were able to see and/or hear the proceedings without difficulty using their computers and/or cellphones.

The ZBA proceeded to take attendance to confirm the members of the public participating and their declared interest in this specific application before the ZBA (see attachment).

The Chair then outlined the procedures for using the Zoom app so that the meeting could proceed in an orderly way, allowing all present an opportunity to participate fully when their turn came.

**2. Conflicts of Interest**

The Chair invited Commission members to announce any conflict of interest with this application. Michael Morfit explained that he serves on the Board of the Mountain Valley Health Council (MVHC), which owns the property on which the medical clinic is located, across Rte 11 from the property in question. MVHC is therefore an interested party. However, MVHC has reviewed the application and is taking no position, neither opposing nor supporting it. In addition, Morfit has no personal financial interest in the outcome of the hearing. Therefore, after consulting the town’s attorney, he is not recusing himself from this deliberation. No objections to this decision were voiced.

**3. Statement by Zoning Administrator**

In his overview statement, the Zoning Administrator provided a brief summary of the main features of the application. The parcel in question lies in an area designated as a Commercial District in the town’s By-laws. The applicant is proposing to convert the existing structure to serve as a office and service center for is management and distribution of propane gas to local customers. This would involve landscaping, access drives and parking for office staff, service vehicles and delivery trucks. In addition, the applicant proposes the instillation of a 30,000 liquid propane gas storage tank. In the town’s By-laws, ‘Industrial Uses’ are listed as one of the Conditionally Permitted Uses in the Commercial District.

**4. Statement by Application (Blue Flame Gas Co.)**

Mike Eugair (General Manager, Blue Flame Gas) and Brent Rokowski (Otter Creek Engineering) made the following general points about the proposed site in their initial presentation:

* Not a large-scale operation but a local facility to service local customers within a 15 mile radius.
* Hours of operation would be limited (8 am to 4:30 pm, Monday through Friday).
* Not a lot of traffic during the day. Service trucks would leave at beginning of day and return only at the end.
* Delivery by large tanker truck for storage facility would be limited (about 1/week during the summer and 3/week during cold winter months).
* ‘Not visible from most of the area’
* Propane is used widely and safely across the whole country.
* Fire safety -- site would be licensed by state authorities, with state permits and regulations, including coordination with the local fire department and training programs for all staff. Plans have already been reviewed by Londonderry Voluntary Fire Department with no objection. As extra measure, Blue Flame would reactivate local hydrant that could service the whole area in an emergency.
* Traffic safety has been examined and turn-in to Valley View Drive is within visual sight lines allowing adequate margin of safety for vehicles travelling Route 11 at the established 50 mph limit.
* Act 250 permit process will be required to ensure that there are no issues with storm water. No issues of ground water safety have been identified.

In addition, counsel for Blue Flame (Stephan Cassarino) made the following points:

* Application confirms fully to town plan and zoning regulations.
* Business district specifically allows for industrial use. Industrial use allows for warehousing. Warehousing includes storage of fuel.
* The town plan clearly envisions and permits the possibility of industrial use. The property along Rte 11 is only property designated in town plan as appropriate for industrial development.
* For these reasons, there is no basis for denial of Conditional Use Permit.

**5. Questions and Comments from Planning Commission/ZBA and Members of the Public**

Questions and comments were wide-ranging, but generally focused on six areas of concern.

*a. Clarification Questions.* Several members of the Commission/ZBA felt that the application as submitted did not provide sufficient information to give a clear picture of what the completed project would look like; how it would appear from the vantage point of the houses of surrounding neighbors and abutting property owners? How will it look from the Flood Brook School and Rte 11? It was noted, for example, that the application provides no elevations so it is impossible to get a sense of the overall look of the proposed project. In addition, the application is silent on critically important information (such as the exact dimension of the propane fuel storage tank, including its height). What is the height of the security fence around this tank?

Questions were also raised about the information provided in the site plan regarding screening and landscaping. It is hard to determine from the site plan if the general requirement and standards of Section 330 of the By-laws have been satisfied. Similarly, have the specific requirements of Section 423(a) and (b) been met? What about requirements for screening of storage areas (Section 425)? The application in its current form does not provide sufficient clarity on these questions.

*b. Consistency with Overall Objectives of Town Plan and General Conditional Use Standards.* Several members of the public argued that the proposal is not consistent with the overall rural and residential nature of the town. The application proposes a significant industrial site and is not consistent with general conditions use standards.

*c. Adverse Impact on Immediate Neighborhood, including Flood Brook School.* Abutting property owners and nearby neighbors of the property were unanimous in their opposition to the application. They characterized this as a severe disruption to the quiet, residential character of the neighborhood and a threat to the safety and security of children, pedestrians and pets who use Valley View Drive at all times of the day and the year. If approved, the project would have a significant adverse impact on surrounding property values. It would not meet the general performance standards of Section 320 requiring that ‘any activity on property in Landgrove will have a minimal impact on neighboring properties’.

*d. Traffic Safety.* ZBA members and several abutting property owners questions the assurances regarding the safety of having large tanker trucks and smaller delivery trucks turning on and off Valley View Drive from Rte 11. They noted that although the speed limit is posted as 50 mph, the reality is that most traffic exceeds it, often by a considerable margin. How would the site lines and safety analysis by Otter Creek Engineering change if we assumed most Rte 11 traffic is in fact in the 55-65 mph range?

*e. Fire Safety.* Notwithstanding assurance from Blue Flame about state oversight and regulation, several participants questioned whether the proposal meets the general performance standards identified in Section 321, particularly with regard to fire, explosion or safety hazards and noxious gases. It was pointed out that although the Flood Brook school structure would be some distance away from the proposed propane storage facility, the actual playground would be much closer.

*f. Adverse environmental Impact.* Greg Harrington, Director of Operations, Bennington Regional Supervisory Union (BRSU) asserted that the proposed storage of propane gas would be in violation of watershed safety requirements, adversely impacting the interests and wellbeing of Flood Brook school, its teachers, staff and students.

**6. Motion to Adjourn to reconvene on July 2 at 5:30 pm**

Given the complexity of the issues, the range of questions from the public, the expressed desire of the Planning Commission/ZBA for clarifications and more information from Blue Flame Gas on a range of key issues, it became clear after nearly 3 hours of discussion that an adjournment would be required.

The motion was made and passed unanimously to adjourn the current hearing to **reconvene at 5:30 pm on Thursday, July 2, 2020**.

Because the current public health restrictions will still apply, participants were reminded by the Chair that the continuation of this hearing will also be using Zoom. Information on accessing the Zoom meeting will be warned and also sent directly to all those who participated in today’s hearing.

**7. Deliberative Session.** The Commission moved into deliberative session at 7:52 pm to discuss this application.

The Commission adjourned the Deliberative Session at 8:25 pm.