

APPROVED

**TOWN OF PELHAM
ZONING BOARD OF ADJUSTMENT
August 18, 2022 – Special Meeting**

Chairman David Hennessey called the meeting to order at approximately 7:00 pm. He explained that the purpose of the meeting was to reconsider Case #ZO2022-00017.

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENT ROLL CALL: David Hennessey
Jim Bergeron
John Westwood
Jeff Caira
Planning Director/Zoning Administrator Jennifer Beauregard

ABSENT: Alternate Shaun Hamilton
Recording Secretary Jordyn Isabelle

Case #ZO2022-00017

Map 41 Lot 6-137

VEILLETTE, Brian T. & Nancy L. – 8 Pulpit Rock Road – APPEAL FROM AN ADMINISTRATIVE DECISION concerning: Planning Board decision rendered on 6-20-2022 in case #PL2022-00023, regarding the minor site plan review to request a change in hours of operation and to allow wood splitting on site, also a review of the code enforcement officer's decision relating to the interpretation and enforcement of the provisions of the Zoning Ordinance.

Mr. Hennessey explained that this is an unusual case where there was an appeal of the Planning Board's decision to go before the Zoning Board. He continued that there was a 3-2 vote at the previous meeting to override the Planning Board's decision. Mr. Hennessey stated that after the decision was made, he believed that the decision was incorrect.

Mr. Bergeron recused himself from the case, due to being a member of the Planning Board who voted on the original change of use for the lot.

Ms. Beauregard read aloud from RSA 677 from the *Zoning Board of Adjustment in New Hampshire, a Handbook for Local Officials* put out by the Office of Strategic Initiatives. "The board may reconsider their decision provided it is done within the statutory 30-day appeal period of the original decision. We believe that municipal boards, like courts, have the power to reverse themselves anytime prior to final decision of interest of justice so require. We hold that belief because the statutory scheme established in RSA Chapter 677 is based upon the principle that a local board should have the first opportunity to pass upon any alleged errors in its own decisions, so that the court may have the benefit of the board's judgement in hearing the appeal."

Mr. Hennessey expressed that there has been a general confusion over the years over zoning, including understanding what has been grandfathered in and what appropriate use on this particular property is. He explained that a variance had been granted on the property, explaining that the lot existed prior to the

existence of zoning laws, which is why they were granted the ability to keep using the lot the way they were, which at the time was residential. He stated that two more variances have been granted on the property, most recently for a car dealership, which it no longer operates as. He stated that now the lot is being used to bring timber on site and convert it into wood products. He explained that he had not been able to see how that was a continuance of what was there before, which was his main concern. He continued that the lot was not being used as an agricultural use, as he had thought – it is more light manufacturing. He explained that the owners were taking a product, changing the nature of that product, using it, and shipping it out, which is light industrial. He stated that light manufacturing is allowed in the industrial zone, not something that must be approved in that zone. He explained that for that reason, it is under the Planning Board's jurisdiction to take a change in use in a zone. He further explained that when a change of use happens, the Planning Board is allowed to create a new site plan.

Mr. Hennessey explained that the vote tonight would be whether or not the board should reconsider their decision that the Planning Board's decision should be overwritten.

Mr. Ciara stated that he believed they should reconsider the case. He explained that the owner asked to change her hours of operation and to allow log splitting. He stated that everybody does log splitting and has wood delivered to them. Mr. Hennessey stated that wood splitting is a use that's allowed in all the districts as an agricultural use, as many residents in Town have. He explained that while that is the case, this was a business operation that would be considered manufacturing. Mr. Hennessey stated that he believed what the owner was doing is allowed under zoning. Mr. Ciara stated he agreed with that.

Mr. Wing stated that he did not dispute the rationale that was brought forth thus far. He stated that this will likely go before the appeals board. He asked if it would be better to have the Planning Board review this before it goes to the housing appeals board. Mr. Hennessey stated that he did not believe the main concern should be whether the decision will go to the housing appeals board, he just wanted to ensure they did the right thing.

Mr. Ciara stated that the original Planning Board vote was unanimous, and he believes that there are very good members on that board. He asserted he has faith in that board. Mr. Hennessey agreed with that.

Mr. Westwood asked for clarification on when the lot was created. Mr. Hennessey explained that the lot predates zoning and that there have been a couple of appeals for variances on the lot, one of the variances being for inadequate lot size. Mr. Hennessey continued that he had been confused on what the Planning Board was deciding on, as they stated it was a minor site plan change to what was previously a car dealership. Mr. Hennessey continued that he believed the Planning Board was right in their jurisdiction to make that change, as long as there was an agreement that what the owner is doing is light manufacturing.

Mr. Westwood asked if the Industry Board had any say on the case. Mr. Hennessey stated that they may make a recommendation, but they do not have jurisdiction to make decisions on the case.

Mr. Wing informed that in 2007, the Planning Board approved a site plan application from a car dealership to a landscaping business.

Ms. Beauregard explained that this is not a time when they would typically open it to the public for discussion, as it is not a public hearing – it is a public meeting. Mr. Hennessey stated he would still allow Mr. Bergeron to speak about the case, as he is an active member of the Board.

Mr. Bergeron stated that the Planning Board has had no discussion on this case since the original unanimous decision. He expressed that he only could speak for himself, not the entirety of the Planning Board. He explained that his thoughts were that there was a use occurring under a variance that had been granted. He

explained that the minor site plan change was to allow a landscaping business and to change the hours of operation. He asserted that the hours of operation are not beyond what the town has set in the noise ordinance. He asked that the Board consider that the Planning Board's decision was correct.

CASE #ZO2022-00017

ROLL CALL VOTE:	Mr. Ciara	–	Rehear the case
	Mr. Wing	–	Rehear the case
	Mr. Westwood	–	Not to rehear the case
	Mr. Hennessey	–	Rehear the case

THE BOARD WILL REHEAR THE CASE

Ms. Beauregard explained that they would renotify abutters as the Town.

DATE SPECIFIED CASE(S) – September 19, 2022

Case #ZO2022-00017 – Map 41 Lot 6-137 – VEILLETTE, Brian T. & Nancy L. – 8 Pulpit Rock Road

ADJOURNMENT

MOTION: (Ciara/Wing) To adjourn the meeting.

VOTE: (4-0-0) The motion carried.

The meeting was adjourned at approximately 7:30 pm.

Respectfully submitted,
Jordyn M. Isabelle
Recording Secretary