



TOWN OF THOMPSON

Zoning Board of Appeals

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Minutes: Zoning Board of Appeals

p. 1 of 9

Monday, June 7, 2021 at 7:00 PM

Merrill Seney Community Room, Thompson Town Hall, 815 Riverside Drive, North Grosvenordale, CT 06255

1. Call to order

Chairman Kevin Beno called the meeting to order at 7:00 PM and welcomed a new Alternate Member, Paul Lenky.

2. Roll call and seating of alternates

Chairman Kevin Beno, Jason St. Onge, Kirby Cunha, Leslie Lavalley, Ross Dimock

Absent: Jeff Bolte, Ken Weiss

Seating Alternates: Leslie Lavalley, Ross Dimock

Staff Present: Cynthia Dunne, Zoning Enforcement Officer; Gloria Harvey, Recording Secretary

3. Public Hearing:

ZBA 21-02 *Bates Auto Parts, Inc., Owner of Record Linehouse Road LLC, c/o Maher and Cotnoir, PO Box 187, Putnam, CT, property located at 64 Linehouse Rd, Map 38, Block 71 and 71B, Lot 13 and 5, Zone RRAD.* This is an application pursuant to Conn. Gen. Stat. Sec. 14-67 for approval to use the premises for the operation or maintenance of a motor vehicle recycler's yard or motor vehicle recycler's business. Rescheduled from May 10, 2021.

The following is a summary of information that is in the record for the ZBA to review, open and begin discussion at the Public Hearing on this application.

First Step Letter

- Applicant informed ZEO all required notices have been completed. New certified letters were sent out concerning the new date of the Public Hearing. A copy of the certified letter was received in the ZEO office on May 27, 2021. *

- #1 in the letter – Engineered Site Plan has not been received
- #2 in the letter – Attachment #1 is the only documentation I have on the approval from 1975
- #3 in the letter – ZEO is requesting Fence and area of use, 3.18 acres to be delineated on the site plan.
- #4 in the letter – no answer on the mentioned Mylar in 1992,
- #5 in the letter – follow up Unilateral order from DEEP is in the Application Packet
In a phone conversation with the applicant, Attorney Cotnoir, he told the ZEO he advised the party that has a financial interest in the property to hire a professional soil scientist to rectify DEEP issues.
- ***Communication received from DEEP, 5/19/21, NOTICE OF ENFORCEMENT ACTION – BATES AUTO, INC. AND LINEHOUSE ROAD, LLC LOCATED AT 64 LINEHOUSE ROAD, THOMPSON, CONNECTICUT.***
- #6 in the letter – No response on Tanks in the ground, information concerning the tanks is in the Application Packet.

1. Addendum Letter to the First Step Letter

- #1 in the Addendum letter- Requested a plan of action to be submitted cleanup of the property, submitting a realistic time schedule
- #2 in the Addendum letter – Received a communication from the Secretary of State office citing default of LLC filing. ZEO requested applicant address this communication at the ZBA meeting. Information is an enclosure on the Addendum I letter.

Attorney Cotnoir, 166 Providence Street, Putnam, CT, was appointed by Probate Court as the Administrator for Bates Auto Parts, Inc. He confirmed that all abutters were notified by letters and a sign was posted on the property. Attorney Cotnoir stated that the purpose of this Application is to seek a Recyclers Permit or Junkyard/Salvage Yard Permit. He gave a brief overview of the history of the use of the site stating the original Recycling Permit goes back to early 1970's and has been running since then by the Bates family as a junkyard. He further stated that in the late 1980's and early 2000's there were financial issues and Fred Bates received notices of violation from the DEEP regarding practices to the way they were handling solid waste. When Mr. Bates passed the title to the property, the real estate, was held by Linehouse Road, LLC, a company Mr. Bates owned almost exclusively. The Recycling License was owned by Bates Auto Part, LLC. When he passed all entities went to the estate. The estate is currently insolvent. Following a fatality at the

site, the Recycler's License was pulled by the State, which caused both the DEEP and MVP to begin looking into compliance issues and they found that the insurance premiums for the recycling yard had lapsed and at that point the MVP pulled the Salvage Yard Permit in 2020. Almost simultaneously with that the DEEP has been reviewing the environmental history of the property and they have found a lengthy notice of violations.

As a result, the estate itself is insolvent. There is not enough money in the estate to pay the probate fees, funeral expenses, attorney fees. Attorney Cotnoir was not the original Administrator. The original Administrator was an Attorney out of Hartford, CT who had represented Mr. Bates for approximately 15 years. The reason Attorney Cotnoir became the new Administrator is because the estate is insolvent and has no funds. The only asset the estate has is whatever the value is in this real estate and the Recycling Permit/License, both of which were owned by Fred Bates. The reason the Probate Court appointed Attorney Cotnoir is because he represents an investor who had been in negotiations with Fred Bates to buy into the yard, and those negotiations went south, and as a result of that Attorney Cotnoir's client sued Mr. Bates while he was alive and obtained a very significant judgement against him. The reason this is relevant is because since he has a significant amount of money involved already invested in this since he is in the business, he was in a position to make an offer through the Probate Court to buy this business. However, there are several preconditions that need to be resolved first. Attorney Cotnoir brought this up because in addition to everything else, Mr. Bates has not paid real estate taxes on his property. The amount owed currently is \$48,974.44 (Tax \$21,171.61 and Interest \$27,082.83). The Town of Thompson Board of Selectmen is considering a tax abatement.

Attorney Cotnoir contacted a licensed Environmental Professional to deal with the DEEP report. Some of the issues are significant and others are pretty easily dealt with, however the Environmental Professional reported that testing and cleanup would be required and since the environmental concerns have been ongoing and not recent, they have gotten worse. As a result of the worsening environmental issues, the Town of Thompson is reluctant to even try to foreclose the property or conduct a tax sale. Currently, the Town of Thompson is not getting paid any taxes and the environmental situation is being ignored due to a significant liability for whoever ends up owning the property and having to get the environmental issues cleaned up.

Originally, Attorney Cotnoir proposed to creditors of the estate and the Probate Judge, a sale to the existing creditor to take over the property and run it again as a salvage yard,

which would require him to make an arrangement with the Town of Thompson to get the taxes paid and do whatever has to be done to clean up the site. Therefore, the first step is getting the Recycling Permit and if it isn't going to be issued, then there is no opportunity for anyone to do anything with this site and it's just going to sit there. Therefore, the issue at this Public Hearing is to see if the ZBA is willing to approve Application #21-02 for the Salvage Yard Permit, because if the Salvage Yard Permit is not reissued, then the Salvage Yard is not viable because nothing can be done with it. This Salvage Yard has been in operation continuously for a long period of time, but because the Permit was technically pulled, Attorney Cotnoir was advised by DMV to go back to the Town of Thompson and start over again and get a new Permit as opposed to trying to continue the old permit which was pulled for failure to have insurance and because it was owned by an LLC. Technically speaking the LLC could have tried to replace the insurance.

Jason St. Onge asked what has been the extent of the DEEP testing to this point. Attorney Cotnoir replied the DEEP has not done additional borings. Attorney Cotnoir further stated the DEEP received complaints about the condition of the property and they went out and looked at the site. Attorney Cotnoir said he spoke with a licensed Environmental Professional who spoke with representatives at DEEP and was told that significant testing has to be done.

Kevin Beno asked Attorney Cotnoir for an estimate as to the cost of the cleanup of the site and Attorney Cotnoir replied that somewhere between \$5,000 and \$8,000 for testing plus an unknown larger amount for cleanup.

Paul Lenky asked Attorney Cotnoir for clarification on whether he was looking for a motor vehicle maintenance yard or a recycling yard. Attorney Cotnoir replied Mr. Bates had a Motor Vehicle Salvage Yard Permit and that Permit allows recycling of motor vehicles only.

Kevin Beno asked Attorney Cotnoir if he had a Plot Plan and he replied he had no Plot Plan. He was doing this on behalf of the estate and is trying to get a sense of whether Application #21-02 will be approved without spending a great deal of money. A question was asked where the money was going to come from to get the site cleaned up and Attorney Cotnoir replied that if he can obtain a location approval and someone to buy it who has a Permit, they will run the business and then have the funds to clean up the site.

ZEO stated that one of the biggest issues is the license was given in 1973 and in 1992 it went to the PZC and the decision given by the PZC was the Mr. Bates was only to use 3.1

acres of the 7-acre site. The ZEO asked Attorney Cotnoir if the citation from the DEEP included all 7 acres or only 3 acres. Attorney Cotnoir replied that he believed they looked at everything. The ZEO also asked about a time limit from the DEEP and Attorney Cotnoir replied ordinarily 60 days, however after explaining the situation, the DEEP replied that they are not going to hold us to a specific time. ZEO also stated that the letter from the Tax Collector dated June 4, 2021, is under consideration by the Board of Selectman. The ZEO showed Site Plans from Bates Auto record 1992.

Ross Dimock asked how close the wetlands were to the salvage yard and the ZEO showed the ZBA members where the wetlands were located.

Kevin Beno commented that 7 acres would have to be cleaned up in order to use 3 acres. He also stated that there are two issues, one being the testing and the other the cleanup of the yard. Attorney Cotnoir commented that the jurisdiction of the ZBA was to give approval for the Salvage Yard Permit. Kevin Beno asked what would happen if the ZBA issued the license and the site was not cleaned up. Attorney Cotnoir replied that the ZBA had two protections against that:

- DEEP is not going to let that happen, and the ZBA should make the cleanup as a condition of approval.
- The ZBA would have the authority to enforce the cleanup if they made it as a condition of the approval.

The ZEO stated that without the cleanup the owner would not be able to get insurance or the Permit from the Zoning Office.

Attorney Cotnoir asked the ZBA to keep the Public Hearing open so he could put together a proposal once he has heard comments from the public on Application #21-02.

Kevin Beno read a letter into the record from Sam Duquette who expressed the following concerns to the ZEO on June 7, 2021 regarding Application #21-02:

- Property abuts 65 Linehouse road, cleared all cars, wants assurance that no Recycling from 65 and 77 Linehouse Road.
- Expansion beyond the 3.18 acres
- Confirmation that applicant is aware that the previous deceased owner unlawfully expanded beyond the allowed 3.18 acres.

Patricia Jezierski, 88 Linehouse Road, expressed concern over safety of children, high volume of traffic on Linehouse Road, well testing and contamination, and the dumping of junk at the salvage yard.

Sharon Mayotte, 56 Linehouse Road, concerned about property values, people dropping junk at the salvage yard, effect on wetlands, smelling oil when it rains, strong diesel fumes starting at 7am when the salvage yard is in operation, width of the small road, and the salvage yard property taking over the whole street. She asked if the salvage yard qualified for abandonment. Paul Lenky addressed abandonment question stating there is a fine line in the definition. He stated that when a license is granted, whatever standards are in place need to be conformed to. Kevin Beno asked Sharon Mayotte if it would be helpful if a condition was put into Application #21-02 that their license would be revoked immediately if they did not comply with the conditions of the Permit.

Attorney Cotnoir said the level of contamination is not known and if the salvage yard just sits there and is not cleaned up contamination will continue to seep into the ground.

Abutters were concerned that if the Permit is granted, the site is cleaned up, and then the issues start all over again disregarding all the conditions in place.

Ronald Rybacki, 42 Linehouse Road, asked if there was any way to get a traffic count done on the Linehouse Road. Paul Lenky replied that it's a collector road between Route 12 and Route 131 and there is nothing that can be done to slow traffic down. Mr. Rybacki also asked if there were grants to have the salvage yard cleaned up and shut down.

Carlos Bastos, 77 Silk Street, Dayville CT. commented that ultimately if you buy an LLC and get a group of 20 people together and DEEP comes in says this is what you need to do without anyone knowing anything about what is on the site until the testing is done. When you get a new license, the DEEP comes out to the site and inspects it and in order to get a license, you have to comply to today's standards not 60 years ago. The state isn't going to issue a license the way things are at the salvage yard right now. The way it works is you apply with the Town of Thompson, the Town approves the application, and then you have to go to the State of CT. If the State of CT approves it, the DEEP goes out to the site to do an on-site inspection. It is a lengthy process to obtain a license. The biggest concern is where the chemicals are if there should be a fire there, thousands of gallons of

oil that are there will burn for days which is a huge risk and a liability issue. The site is never going to become better if nothing is done, it is only going to become worse. It is a liability to the Town of Thompson if they took it over and a liability to the neighborhood if they buy it. If Mrs. Bates hadn't passed away, this wouldn't be an issue. The license would have continued by going back to the DMV and getting the license active again because the State is lenient and wants businesses.

Attorney Cotnoir stated that if the ZBA puts conditions on the approval of Application #21-02, the Town of Thompson has enforcement rights and its agents can enforce those conditions, and if need be, the Town can take the owners to court. He further stated that no one is liable right now.

Kevin Beno suggested the abutters talk to an attorney, and move the Public Hearing to July 12, 2021 to see if there is some common ground. The ZEO told the abutters that they were welcome review the records in her office in order to obtain more information. Kevin Beno stated that the ZEO has an action plan for whoever takes over the property.

Attorney Cornoir requested a continuance of the Public Hearing to July 12, 2021 meeting in order to come back with a plan to address the issues and comments of the abutters.

Kevin Beno moved and Jason St. Onge seconded the motion to extend the Public Hearing to July 12, 2021. The motion carried unanimously.

ZBA 21-03 Karol and Grazyna Wojtowicz Owner of Record, 2 Marcy Lane, Map 83, Block 7, Lot 13 D, Zone RRAD requesting 16-foot side yard setback to build a 36' x 21' detached garage.

Applicant is on vacation for this meeting, he asked to open the Public Hearing and continue Public Hearing to the next ZBA meeting on July 12, 2021.

The applicant is requesting a motion to add the following amendment to the application: To amend application #21-03 to include a variance to the Town of Thompson Amended Regulations, Article 4A, Rural Residential AG District, Section 3, Dimensional Requirements, Front setback for an accessory structure shall equal or exceed that of the primary structure. As noted in plans and the attached pictures the location of the garage will be in front of the front of the primary structure.

This was brought to the ZEO's attention when she was reviewing the plans with the homeowner on a visit to the office after the ZBA meeting on May 10, 2021. Postponed to July 12, 2021.

4. Discuss Public Hearing and Possible Action:
5. Approval of Regular ZBA Meeting Minutes, May 10, 2021
Kirby Cuhna moved and Ross Dimock seconded the motion to accept the Minutes of May 10, 2021. The motion carried unanimously.
6. Correspondence:
 - a. PZC Regular Meeting Minutes May 24, 2021
 - b. Town of Thompson ZBA Budget Report May 2021
 - c. ZEO Memo
 - d. Town of Webster Zoning Board of Appeals Decision
 - e. Town of Webster Zoning Board of Appeals Public Hearing Notice
7. APPLICATIONS: APPEALS AND VARIANCES
ZBA 21-04 – James Brazel & Susan Waters, Owner of Record 53 Wrightson Drive, Map 153, Block 17, Lot 14, Zone LD, request a variance to the Town of Thompson Amended Regulations, Article 4G, LD District, Section 3, Dimensional Requirements, Front setback for an accessory structure shall equal or exceed that of the primary structure. Applicant placement of the detach garage is on roadside of house.
Accept application for a public hearing on Monday, July, 12. 2019
Ross Dimock moved and Jason St. Onge seconded the motion to accept ZBA Application #21-04 for a Public Hearing on July 12, 2021. The motion carried unanimously.
8. APPLICATIONS RECEIVED AFTER AGENDA POSTED: None
9. Old Business:
10. New Business:

ZEO stated that working with Zoning Regulations, 6 changes were submitted and the PZC approved the changes at their May 24, 2021 meeting and they will be ready to be changed on June 21, 2021. The PZC will continue to meet to discuss changes to the Zoning Regulations.

11.Next Meeting

Monday, July 12, 2021 7:00PM, Merrill Seney Community Room, Thompson Town Hall,
815 Riverside Drive, North Grosvenordale, CT 06255

12.Adjournment

Leslie Lavallee moved and Ross Dimock seconded the motion to adjourn. The motion carried unanimously.

Respectfully Submitted

Gloria Harvey

Recording Secretary