

Minutes of Zoning Board Meeting
Town of Whately
Town Offices Building, 4 Sandy Lane
February 15, 2018

Members Present: Roger Lipton, Debra Carney, Bob Smith
Members Absent: Kristin Vevon, Fred Orloski

Attending:

David Berson of Bacon & Wilson, 6 South East St., Amherst
Vicki L'Abbee, 106 State Rd.
Doug L'Abbee, 75 Harris St., Granby
Dan Denehy, 330 Haydenville Rd.
Patricia Schoenberger, 5 Wildwood Rd., Laconia, NH
Chad Grybko, 100 State Rd.
Mike Grybko, 75 Arnold Rd., Pelham
Laurie Vondung, 4 Conway St., Shelburne Falls
Richard Korpiewski, 19 State Rd.
Kim Fill and Mr. Fill

Chair Roger Lipton opened the first of two public hearings at 6:40 pm.

1) PUBLIC HEARING, P&M HOLDING LLC

Application for either a modification of the special permit granted in 2010 to Harold Towne (for the display and retail of new and used tractor and construction equipment), or a new special permit allowing the applicant to sell, display, repair, and store pellet burning wood stoves and related supplies on the premises.

Attorney David Berson spoke for P&M Holding LLC (dba Amherst Farmer Supply), which already sells wood stoves and related supplies at its store, The Fire Place, located at 106 State Road, Whately. He said his clients have applied to keep some of their inventory at the former tractor outlet next door at 100 State Road, which is now empty. The board asked for details of ownership for the three entities and two landowners involved. Mr. Berson and those involved provided the following information:

P&M Holding, LLC.....owner of 100 State Road
Amherst Farmer Supply, Inc.....operating entity
Michael Grybko & Patricia Schoenberger.....owners of 106 State Road

Mr. Berson and the board agreed that the cleaner way to handle the transition would be to issue a new special permit. Mr. Berson said there were no plans to change the size of the signs for the business. He also explained that the 100 State Road address would be used for storage of about 100 boat docks about 10 feet long and 4 – 6 feet wide. Storage of pallets and stoves would be inside, with storage of boat docks and outdoor furniture outside, he said.

Roger moved to close the public comment portion of the hearing. Bob moved to grant the special permit. Debra seconded, and the motion passed unanimously.

2) PUBLIC HEARING, LAURIE VONDUNG

Application to open a retail vape shop on premises located at 3 State Road and owned by Leah and George Gay, of Hatfield.

Applicant Laurie Vondung, of Shelburne Falls, described her plans to open a vape shop. She said the products she plans to sell include vaping juices of various nicotine levels, bongs, and shisha for use with the bongs. Plans to sell a marijuana-growing product consisting of soil and other items has proved too expensive to offer at this time.

When asked about any planned changes to the former Gay's Package Store, Ms. Vondung said the footprint of the building (about 1200 sq. ft) would not change. Parking in a horseshoe-shaped space would remain as before, she said, adding that she has a five-year lease with the landowner. Customers would buy the products at her shop but would then leave, she noted, adding that it is not legal to vape in a public environment. She will run the shop by herself for the time being, she said, because she can't yet afford employees. She said that even though she has decided not to sell cigarettes, she did get a tobacco sellers license from the health department. The tobacco sellers license, which must be renewed once a year, is not required to sell vape juices in general, but is required for the sale of flavored vape juices. Customers in the store are legally required to be age 21 and older, she said. She will sell online as well, but only to those age 21 and older.

The planned hours of operation are:

Sun	11 am to 6 or 7 pm
Mon & Tue	Closed
Wed – Thur	11 am to 7 pm
Fri & Sat	11 am to 9 pm

Roger read Building Inspector Jim Hawkins' letter denying a building permit for the new business. He also read a letter from James A. and Janice A. Golonka, written in support of Ms. Vondung's plans.

Abutter Kim Fill asked why Ms. Vondung chose the Whately location for her shop, and was told that Shelburne Falls had no space and that Greenfield and Northampton already had vape shops. She asked whether there was a demand for such a business in Whately and Ms. Vondung said she had received support for the project on her Facebook page. Ms. Fill explained her objections to having a vape shop as a neighbor. These included a negative effect on the value of her property, increased traffic, cars turning in her driveway, and especially the accessibility of vaping products to children. She expressed concern that, even though those under age 21 will not be legally allowed in the store, their access to vaping products will become easier.

Abutter Rick Korpiewski spoke in favor of the project, noting that Gay's Package Store, which sold alcohol, was always a town asset. He said that although he himself doesn't agree with vaping, he thinks it's a better plan than a tobacco shop. He pointed out that the location is in the commercial zone, and said he can't judge or criticize Ms. Vondung's plans to occupy the building and pay taxes. He noted that the

neighbors in the area already coexist with businesses like Keyes Electric and Muffin's Market. He was pleased that Ms. Vondung has no plans to create problems for neighbors with more or stronger lighting, adding that he supports the plan as long as Ms. Vondung is a considerate neighbor.

Mr. Fill stated that vape shop would attract unwanted visitors from out of town, and asked the board to consider requiring that the shop's windows be covered so as not to display the products. Debra responded that this might only reinforce the allure of the products, and Bob noted that since the shop is legal in Massachusetts the proprietor has a right to attract customers there through the use of displays.

The board referred to the Zoning Bylaws. Roger noted the requirements and explained how the proposed business may fit, noting that the board has listened to a robust discussion. At 7:41 he closed the public comment portion of the hearing.

In their continuing discussion, board members noted while there is sympathy for some of the concerns discussed, they cannot find reason to deny the permit. It was further noted that Ms. Vondung will have a sign for her new business, but as long as it conforms to the specifications of the zoning bylaws there is no need for her to apply for a special permit for the sign. Bob moved to grant the special permit, Debra seconded, and the board voted unanimously to grant it. The board wrote the decision, and the meeting was adjourned at 8:10 pm.

Documents reviewed (kept in the ZBA files)

1. A yellow, lined, handwritten page headed, "Entities & Owners" for the P&M Holding, LLC proposal
2. A letter dated January 25, 2018 from Building Commissioner James Hawkins to Laurie Vondung, denying a building permit for her change of use at 3 State Road
3. A letter dated 2-8-18 to the Zoning Board of Appeals, from James A. and Janice A. Golonka, written in support of Laurie Vondung's plans

Mary McCarthy,
Secretary
Planning Board
Town of Whately