

Haverhill Zoning Board of Adjustment

Minutes

October 17, 2013

The meeting was called to order by Chairman Dick Guy at 7 p.m. Attendance was taken and in addition to Dick G., members Rick Ladd, Denise Russell and James Graham were present. Clerk Ed Ballam was also present. A quorum was noted.

Dick G. told the public there were plans available for review and agendas. He asked that the public sign in as well.

Dick G. told the public an application was made by Randy Cassidy for property at 861 Lummoxtown Road for the construction of two buildings, one building that is 570 feet by 46 feet and a second that is 540 feet by 46 feet for the commercial production of eggs. Dick G. said the application appears to be complete and the issue is to make sure the project is in compliance with the aquifer protection ordinance, from which the applicant is seeking a special exception.

James G. made a motion to accept the application as complete. Dick G. seconded the motion. The vote was unanimous to accept the application as complete. Dick G. explained to the public that accepting the application as complete only means there is sufficient information for consideration.

Ed B. said the hearing has been properly warned by advertising, notices were posted in public places and the abutters were notified by certified mail. He mentioned that he had made a clerical error in the newspaper ad and put two locations for the project, the original site on French Pond Road, and the second and proper site on Lummoxtown Road. The posted notices were accurate as were all the notices to the abutters. He said only the newspaper ad had the error.

Dick G. opened the public hearing at 7:10 and asked the applicant Randy C. to explain the project. He said he would like to build the two buildings to house chickens for egg production. He said the barn would be equipped with self-scrapers to clean manure on a concrete floor all of which would be contained to the ends of the barns to cement pits with roofs over them to keep water out of them. The manure would be allowed to dry and trucked off. Randy C. said the dried manure is sought after and a commodity that is trucked off site and often sold to farmers for use in corn fields and other land applications.

Randy C. said the operations are very low key and there's no noise or smell. The eggs get trucked off on a regular bases. He said the manure does not touch the ground and the rain is kept out of it because it is more manageable when it is dried.

Randy C. said he would be providing eggs to Pete and Gerry's Organic Eggs, based in Monroe, NH. They would be hauling the eggs and the manure as well as providing the chickens. He would provide the building, care for the chickens and the eggs.

Rick L. asked what guarantees could be provided that the manure that is trucked off site isn't spilled on the roadways. Randy C. said the manure is mostly dried, not liquid and the trucks are pretty much sealed with no spilling. They take precautions to make sure tailgates are shut.

James G. asked about storing and stockpiling manure at the location. Randy C. said the manure is contained in the eight foot pits at the end of each building and it is layered and semi composted in the pits before they are periodically emptied.

Rick L. asked about floor drains and water use. Randy C. said there wouldn't be much need for a lot of water, except for the birds and some egg washing. He said there will be no chemicals used, except for a bit of bleach and Simple Green for sanitizing some items in the packing room. He said the property has a septic design that can handle the amount of water generated by a home with up to four bedrooms and he said they wouldn't use nearly that much water.

Randy C. said there would be two employees at the site three or four hours a day. He said he is considering using portable toilets for any bathroom needs, so there wouldn't be a septic system.

Rick L. had questions about chemicals used or stored on the site in quantities greater than household uses. Ed B. said the application lists there would be four gallons of bleach and four gallons of Simple Green on site. Rick L. asked if that is ALL the chemicals used in the used in the operation. Ed B. said that's what the applicant says. Randy C. said there is no bulk storage of any chemicals on site. He said the operation is organic. He said the only other thing that would be at the site would be a propane-fired generator, much like a household standby system. That would require propane tanks.

Rick L. asked about bulk storage of feed and any chemicals or materials use for the care of the birds. Randy C. said there is nothing out of the ordinary, just feed for the birds.

Rick L. asked about any pesticides used on the birds or in the care of the birds. He asked if the operations were totally organic and there's nothing on site or used on the birds. Pete and Gerry's Operations Manager Kevin Phelps said the standards for organic eggs are very strict and nothing can be used on the birds or kept on site. He said the business could lose its organic status if it had anything on site so they are very careful to make sure nothing jeopardizes that status.

Rick L. asked about the phosphorous in the manure. Kevin P. said there was phosphorus in manure. Rick L. said he had done some research and learned that 20,000 birds produces the same amount of phosphorous as a sewage treatment plant in a town of 6,000 people. Kevin P. reminded the public that all the manure produced at the site would be contained in concrete pits and trucked off, not going into the ground water.

Kevin P. said he had a hearing in Dunbarton, NH the previous night and a department of agriculture representative said one barn of chickens would provide enough nutrients for 85 acres, so two barns, as proposed, would require 170 acres to land apply. He said there may be very small mounts that might make contact with the ground.

An abutter asked about dead birds on the site. Kevin P. said they can be composted, along with shavings and other materials in bins.

Rick L. asked if the dead birds are composted in the field, or frozen and composted later. Kevin P. said the mortality of the chickens is very small.

Another abutter asked about the risk to the aquifer. He said there must be some risk or why would there be a public hearing. Dick G. said that's not necessarily true. He said when applicants come in for building permits, they are checked by the Town Manager and ones that need to go to the ZBA because they are

in the aquifer protection area go to public hearing where they are checked to make sure they don't adversely affect the aquifer.

Another member of the public asked about why the project was moved from North Haverhill to Lummoxtown Road. Dick G. said the application for the location on French Pond Road was not complete and the board never discussed the project and it was never pursued.

Rick L. read some RSA that addressed best management practices. He said he is trying to protect ground water throughout the town. He said he has assurances from Pete and Gerry's that they will use best practices, however, Pete and Gerry's doesn't own the property Randy C. does. Rick L. said he wanted assurances from the land owner, either tonight or when they can be delivered that the land owner will use best practices when it comes to manure handling and uses of chemicals and pesticides.

Kevin P. said that in the contract with Pete and Gerry's it says Randy C. must and shall adhere to best management practices. If he neglects to follow best practices, Pete and Gerry's can, at the company's discretion can take over the operation and run it by order of the contract. Kevin P. said if the place gets messy or needs to be cleaned up, Pete and Gerry's can hire someone to do it by the terms of the contract.

Rick L. said that he interpreted that to mean that as a condition of approval, there would be no problem with making reference to best practices as a condition of approval. Kevin P. said it shouldn't be a problem because Randy C.'s contract already states that.

Rick L. said that he is also a commissioner in Haverhill Corner and he has had some residents along Route 25 who have concerns about run off and ground water as they are down hill from the operation. Rick L. said there needs to be some base line data 'right now' to use as a benchmark. Then subsequent testing, say every three years, it might reveal problems if they arise. That baseline data could be helpful if there's any contamination in the future. Rick L. advised people along Route 25 to have their water tested by DES now to confirm baseline data.

An abutter said he has a concern about contamination to his well and other concerns about smell and noise. He said it is silent at his home now, and he has a concern about motors and noise from the site.

Kevin P. said there's not much noise from the equipment, no more than a household air conditioning.

Rick L. said he read in the Concord Monitor about the hearing in Dunbarton and the comments made by some about smell and the outcome of the hearing. It was denied, Rick L. said.

Kevin P. said there were comments made by people who had not visited any of their other sites and there were comments made that were not accurate.

Kathy Talbert said she had visited other sites and there's no smell or noise. Randy C. said there's no more noise or smell than a dairy farm.

Ed B. commented that while all the conversation about noise and smell might be productive, it is not pertinent to the issue of ground water protection. Dick G. agreed.

Another abutter commented about truck traffic. Randy C. said the facility would generate one 10-wheel truck trip a week. Once every two weeks or so, there might be an occasion where two trucks entered the

site in one day. The Lummoxtown Road residents asked about truck traffic on Lummoxtown Road and how in the spring the road gets muddy. He asked what the plan was to maintain the road.

Randy C. said the pits can hold two month's worth of manure. Rick L. said he had a discussion with the town manager about the truck traffic on Lummoxtown Road and there is concern about damage to the road. Rick L. said he is looking at impact fees if damage is done to the road and having the applicant restore the road to its previous condition. Rick L. said the selectmen would have to address that not the Zoning Board, but he said there is a concern about the road's ability to handle heavy truck traffic.

Randy C. said he has a need to maintain the road to get his product to market and he is not going to destroy the road.

There was much discussion about the road and Ed B. reminded the public that it has nothing to do with aquifer protection.

A resident asked about the contract between Pete and Gerry's and Randy C. and its length, Kevin P. said it was for as long as it an egg producing facility.

Rick L. asked about liability and who is responsible for any damages. Kevin P. said it would be the land owner.

Dick G. asked about insurance and if it is required. Kevin P. said it would behoove the owner to have insurance in the event of fire or other event. He wasn't sure if it was a clause in the contract. Dick G. asked about liability insurance. Randy C. said he does have to carry liability insurance and has sought quotes.

Rick L. asked about the liability of who pays if the ground water becomes contaminated. He asked who is responsible for any contamination of well water in the future. Kevin P. said it would be the land owner.

Another resident asked if there was any routine testing of the area around the facility for contamination of ground water.

Dick G. said it doesn't seem like there's any need for testing because the floor is concrete, the pits are concrete and there's no manure that contacts the soil. There's a roof over it as well, Dick G. said. Dick G. said he and James G. visited the operations in Monroe and he said the manure is mostly dry and kept dry with roofs over it. As it crusts over the odor is sealed in as well.

Rick L. asked how much water the bird consume in a day – 1,200 gallons? Kevin P. said one barn uses about as much water as a residential home. He said maybe 600 gallons per barn per day.

A member of the public asked about how the manure is managed. Dick G. said that from his observations in Monroe, the chickens stand on plastic grates and the manure falls to the floor below and then scrapped out by an automated scraper and placed into the bin. Kevin P. said the scrapers run three or four times per day.

One person asked if the birds ever go outside. Kevin P. said that as an organic system, the birds will be allowed outside. The person asked about the manure outside. Kevin P. said there would be some manure that lands outside on the grass. Another person said 40,000 chickens going to the bathroom outside might be an issue. Kevin P. said that not all 40,000 birds go outside, he said maybe 3,000

chickens go outside at any given time. Some never go outside and they have the option to go out or stay in.

Randy C. said some of the birds actually roost in the barns.

Another resident said he was concerned about the manure that was released outside because of the amount of rain water that would be shed off the buildings, he said that would go into the ground water after every rain. He said there are a number of streams that come out of the adjacent hillside. He said he is concerned about the manure that is not being collected but running off into the ground water.

Randy C. said there are a number of dairy farm that allow their cattle to go to pasture and the manure is release there as well. Kevin P. said about 250 chickens equals one cow when it comes to waste. He said a farm of 40,000 chickens would be equal to a dairy farm with 160 cows.

Rick L. asked about waste water and where it goes. Randy C. said there's not much waste water only from the cleaning of the eggs.

Dick G. read the ordinance regarding the special exception to the aquifer protection district. Dick G. asked if there were any additional questions. Hearing none, he declared the public hearing closed at 7:40 p.m.

Dick G. asked the members the questions required of the ordinance. Ed B. distributed the voting sheets for the application. Dick G. said that because there were four members present, he was going to abstain from voting to avoid any ties.

Rick L. asked the applicant how close the ground water was to the surface. Randy C. said he went down 10 feet and found all sand. Rick L. said other parts of the area are clay. Randy C. said there is some wet areas that are clay, but the area where he proposes to build the barns is dry and on sandy soil.

The board deliberated on the three questions they were required to answer. The second question was regarding the use being detrimental to the area. And the third question was related to adequate and appropriate protection to the environmental.

Rick L. said he wanted two requirements one from each of the parties, one from the land owner and one from Pete and Gerry's that best management practices be followed in the operation in accordance with the state statue. Kevin P. asked if the Rick L. would like to see a copy of the contract. Rick L. said he didn't need to see a copy of the contract but he wanted it to be in the motion that best practices, in accordance with state RSA be followed. Rick L. also said he had a concern about the Lummoxtown Road in the spring and he said the board of selectmen would address that in the future.

Rick L. asked the public if they thought the project would devalue their property. Some abutters said yes, one said as long as it was far off the road and was limited to a couple of buildings, it wasn't a problem, the abutter said it was no worse that if someone built a house out there.

Ed B. said the public hearing portion had been closed, and recommended the board stick to its rules and not take any additional testimony especially as voting was going on. Ed B. said that if there additional questions, perhaps the board should go back into public hearing. Dick G. said he agreed.

The ballots were turn into the chairman Dick G. who said the special exception to the aquifer protection ordinance was granted by a unanimous vote of the three voting members in favor of granting the

exception. Dick G. said there is a condition that best management practices as stated in RSA 674:32A be followed by the owner and operator and a second that the selectboard address the issue of Lummoxtown Road.

Ed B. said he was unsure how to record the second part of the motion, especially because it involved another independent board. He asked how was it going to be enforced and how would the ZBA do that. He said he didn't think it was appropriate on a special exception to the aquifer protection ordinance. Dick G. said it does appear to be problematic. Dick G. said he recommends that any letter of approval should incorporate the exact language of the motion.

Rick L. asked Ed B. about fire protection for the site and whether HCFD had equipment to fight a fire at the chicken facility if one occurred. Ed B. said a fire in any farm is a challenge. He said there might be water issues, it's an open building. But fortunately, there wouldn't be any exposures to dwelling or any other property, except Randy C.'s

Dick G. said that the vote concludes any business with Randy Cassidy.

In other business, James G. made a motion to approve the minutes of April 23, 2013 meeting and the July 9, 2013 meetings. Rick L. seconded the motion for the April 23 as he was not present for the July 9 meeting. Dick G. seconded the motion for the July 9 meeting. Both votes were unanimous with Rick L. abstaining from the vote on the July 9 minutes.

There being no further business, the meeting was adjourned at 8:15 p.m.

Respectfully submitted,

Ed Ballam

Clerk, Haverhill ZBA