MINUTES OF THE ZONING BOARD OF ADJUSTMENT

February 11th 2019

MERIDEN TOWN HALL

Zoning Board
Members Present: Richard Colburn, Chairman Peter Martin
Brad Atwater Bill McGonigle
Scott MacLeay, Alt

Planning Board
Members Present: Mike Sutherland Ryan Boynton
Judy Belyea Steve Halleran, Alt

Others Present: Amy Franklin David Lillie
Patricia Lillie Troy Hall
Patricia Hall Paul Franklin
Nancy Franklin

The meeting opened at 7:00pm

Chairman Colburn opened case 19-01 a request by BART Industries to modify the hours of operation for the new warehouse at 360 Rte 12A. The Planning Board was also in attendance this evening to address any planned changes to their approved site plan for the project.

Attorney Brad Atwood represented the applicant. Mr. Atwood explained that the new request is for six days per week, Monday through Saturday 4am to 4pm for the delivery trucks with bulk truck deliveries between the hours of 4am to 9pm Sunday through Friday.

Attorney Atwood explained that changes to the site that have been made to minimize these proposed new hours are as follows:

Most outside lights are now on motion sensitive switches; the dumpsters have been relocated away from any property line and have been designated for a residential collection route, not a commercial one. Enhanced vegetative screening is planned and will include a 2’ berm along the Franklin property line with trees to be planted on the top.

Employee parking along the Franklin property line has been moved to the interior of the lot.

The owner is proposing to reduce the number of delivery trucks allowed from 10 to 8.
Public Comment:

Amy Franklin discussed some work she did graphing the delivery times to the site as provided by the applicant. A significant number of them occur outside of the approved hours and even outside the now proposed hours. Amy acknowledged the reduction in outside lighting and relocation of the dumpster as two things that have helped mitigate the effects of the business use to her property.

David and Patricia Lillie: Expressed concern about the activity at the site, noting that the Zoning Board might have reached a different conclusion if the current hours had been revealed when the application was originally made.

Owner Robert Boylan apologized to those in attendance, indicating that he was unaware of the changes to the delivery schedules when he obtained his initial approvals and built the facility. He and his business partner continue to believe that they can operate the warehouse in a manner that does not harm neighbors.

Paul Franklin: Noted that while the board is rightfully trying to work with the applicant to find middle ground, at the end of the day their job is to judge the appropriateness of the use at that site in that neighborhood. In his view, the neighborhood is residential and agricultural.

Troy and Patricia Hall: Neither has any problem with the use as currently configured. What does concern them is the uncertainty of what the use might become. It was represented in one manner and has been developed in a different manner. What they would like is certainty going forward as to the size and scale of the use.

Board members began their deliberations. It became clear that the board did not feel that the proposed hours of operation were a useful way of bounding the operation. Regardless of what hours are set, deviation from those hours seems likely. Evaluating the use as a 24 hour per day, seven day a week, low intensity operation seemed a more reasonable approach. The issue then being does the relatively low intensity of use offset the fact that the site might have some traffic any day of the week or time of the day. Members noted that state roads are the only places in town where these types of commercial uses are allowed.

The Frito Lay warehouse manager testified that the site is not able to support more than 8 small delivery trucks and no more than 2 bulk deliveries of product per day. That would be the maximum that is possible at the site. He reminded the group that most of the activity at the site is early in the day when the trucks leave and later in the afternoon when they return. Many hours of each day there is no activity at the site. He conceded that while often the bulk trucks arrive during the daylight hours, but at times those trucks do arrive late into the night or very early in the morning. The bulk trucking work is all done on a bid process at the regional level.
At this time Attorney Atwood asked that the Zoning Board consider a recess of this meeting to give the applicant one final opportunity to continue to discuss with abutters about ways to further enhance the site plan for the lot to minimize the impact of the activity on site. As the applicant continues to learn more about neighbors concerns they remain confident that solutions exist.

The Board noted that a decision on this case must come very soon, but given the hour a motion to recess the case until Thursday March 14\textsuperscript{th} at 7pm was made, seconded and voted in the affirmative. Any further action required by the Planning Board will be done at another time not yet determined.

The meeting adjourned at 9:40pm.

Stephen Halleran

Richard Colburn
The meeting opened at 7:00pm.

The December 10th 2018 and February 11th 2018 minutes were approved as amended.

Chairman Colburn reopened case 19-01, a request by B-A-R-T Industries to modify its existing approval to allow for an expansion of approved hours of operation for the facility. See February 11th for background.

Attorney Atwood, representing the owner, reviewed the findings of an RSG report commissioned by the applicant to study the noise generated by the facility and, where indicated, to offer mitigation recommendations. See file.

Attorney Atwood pointed out that much of the applicant’s activity generates sound very much in line with traffic noise from Route 12A. An exception is the bulk delivery truck when it enters the property, docks, and leaves. To mitigate the noise from these trucks, a sound barrier is recommended for construction along the Franklin line. The applicant is willing to build this barrier. The applicant has not been successful in getting the tenant Frito Lay to modify the delivery times to the warehouse.

The Board reviewed all the details of the proposal and determined that the application was sufficient to move forward. Essentially, as the board understands it, this case is requesting that retail delivery trucks using the property be capped at 8 (6 in use now, 10 allowed by the previous application) and that their hours will be from 4am to 5pm seven days per week. Bulk deliveries of product arriving on tractor trailers will be limited to no more than two per day, but may arrive anytime during a 24 hour period six days per week (no Saturdays). One delivery per day is the most common scenario and it typically arrives between 8am and 6pm, but significant variations due occur.

Chairman Colburn opened the hearing to abutters:
Abutters:

Paul Franklin questioned the accuracy of the information; the operation has a history of acting outside its representation. He pointed out the building was to be located 70’ from their property line, it was built 42’ from the line. He further noted that the permitted uses in the zone are primarily daylight operations and that in all cases there is an uninterrupted period of quiet during the normal sleeping hours. The 24 hour nature of this use means that abutters cannot count on a continuous quiet period during any portion of a day.

Mr. Franklin went on to say this is not about the abutters, in his view it is about whether this type of use is permitted under our existing zoning ordinance. Chair Colburn responded that such a use would likely be permitted if the applicant can mitigate the noise and lights.

Amy Franklin added, that as an abutter, she is fine with activity at the site from early in the morning to into the evening; it’s the late night activity, including back up beepers, that are troublesome.

David Lillie pointed out that, from the beginning, this use has operated outside of its approved hours and its time for this to stop. Board members reviewed the data provided regarding deliver times to the warehouse. More than 25% of the activity has occurred outside the approved 6am to 6pm hours.

Board members reviewed in detail the provided sound study. From it the Board could not, in its judgment, adequately determine that the proposed wall would successfully mitigate the late night noise generated by delivery trucks.

At this time, member Atwater moved that the application be denied based on the following:

The proposed noise abatement measures have not adequately demonstrated that they mitigate the impact of late hour deliveries. In absence of necessary mitigation, the use as proposed is determined to be detrimental to the neighbors expected enjoyment of their property.

The motion was seconded and voted in the affirmative 3 to 0.

The meeting adjourned at 9:30pm.

Stephen Halleran Richard Colburn
MINUTES OF THE ZONING BOARD OF ADJUSTMENT

July 8th 2019

MERIDEN TOWN HALL

Zoning Board
Members Present: Richard Colburn, Chairman  Peter Martin
Brad Atwater  Bill McGonigle
Scott MacLeay

Others Present:  David Lersch BI

The meeting started at 6:45pm with a site visit to #12 Bean Road, a single family home with
attached shop that is proposed for conversion to a four residential apartments. The home may
remain a single family house, and three apartments will be established in the shop.

7:00pm

The group moved to the Meriden Town Hall

This being the first meeting since March, the March minutes were approved.

Member Peter Martin recused himself from case 19-02.

Case 19-02 Joshua Cloud and Megan Tenney: Request for Special Exception #20
Multiple Family Dwelling(s) and any other application section of the Plainfield Zoning
Ordinance to convert the existing single family residence and barn located on 3.7 acres at
#12 Bean Road to four (4) dwelling units. Chairman Colburn called the hearing to order:
the applicant explained the proposal in detail. A small section of the barn closest to the
house will be removed, leaving the SFH as a separate unit and three units (two will have
two bedrooms and a one will be a single bedroom unit) to be built in the barn. The
property has access to both water and sewer services see letter in the file. Nine parking
spaces are proposed (eight are required) and lot coverage on the property is less than 9%.
The applicant plans no work within 50’ of Great Brook. Building Inspector David
Lersch indicated that he has asked the applicant to utilize a Fire Protection Engineer to
determine code compliance with the three unit structure. The applicant indicated that this
work is in progress and will be completed prior to applying for a building permit for the
project.

Finding the application to be complete, the public hearing was opened. No public or
abutters were in attendance, the hearing was closed. Next the Zoning Board started its
formal review of the project. The board determined that two special exceptions are
needed, one for the multi family building, the other for an Approved Combination of
Related uses to combine a single family house and an apartment building on the same
parcel. See section 4.3 B and section 5.6 II.

Given the nature of the neighborhood, the past use of the property as a pottery shop, the
size of the lot, and the availability of public water and sewer the Zoning Board quickly
determined that the proposed use satisfies the applicable sections of the zoning ordinance. Any additional buildings or units will be considered a substantive change requiring additional town review.

The application was approved as presented with no conditions on a vote of 3-0, Chairman Colburn did not vote as there were three other members present.

The case will now move on to Site Plan Review followed by the building permit process.

The meeting was adjourned at 8:15pm.

Stephen Halleran

Richard Colburn, Chair
MINUTES OF THE ZONING BOARD OF ADJUSTMENT
September 23rd 2019
MERIDEN TOWN HALL

Zoning Board
Members Present: Richard Colburn, Chairman Peter Martin
Brad Atwater Bill McGonigle
Scott MacLeay

Others present as listed on sign up sheet:
Pat Lillie Princess Troy Hall Russell Hathoot
Zane Robbins Matthew Snyder Paul Franklin Nancy Franklin
Amy Franklin Adam Hubbard Patrick Boylan Kim McGrath
David Boylan

The meeting opened at 7:00pm: The board’s July 8th minutes were approved as amended.

Case 19-03: BART industries is proposing to expand its hours of operation at the #360 Route 12A facility from 6am-6pm to 5am-10pm seven days per week and have the ability to accept up to two tractor trailer deliveries per day. The applicant was provided an opportunity to explain the requested amendments.

Prior to beginning its deliberations on this matter the Zoning Board considered the Fischer vs. Dover case. Attorney Snyder noted in remarks he made that in his opinion the case is different enough. Paul Franklin, while not given all the opportunity he requested, felt strongly that this case is not sufficiently different. In 19-01 the Board, through its deliberations, determined that the case amounted to a request to operate twenty four hours a day. The appeal was denied, in part, based on the residential nature of the neighborhood that the warehouse is located. Case 19-03 has the warehouse quiet from 10pm to 5am each day. The ZBA after deliberations determined in its view that the proposed amendment was sufficiently different in material circumstances from Case 19-01 to warrant a new hearing.

Next, the public was provided an opportunity to comment on the proposed amendment. Paul Franklin noted that he feels the board did not interpret Fisher correctly and that this case should not be heard. Amy Franklin noted that based on BART’s past track record of operating the facility outside of its approval, there is no reason to think these new hours will be adhered to either. Further, Ms. Franklin feels that 10pm is far to late for a residential area. Paul Franklin noted that while many agriculture uses have extended hours, they typically have significant land buffers which mitigate impacts on neighbors. Nancy Franklin feels that the warehouse is not in keeping with the town’s Master Plan or the Connecticut River corridor management plan. Kim McGrath, part of the BART ownership noted that the company acknowledges that their prior manager did not properly represent the needs of the warehouse to the Board (case 17-10) and certainly did not share the decision details with their tenant. Consequently, the facility has operated
outside of its hours. She noted that BART, like many of the agricultural operations in
town, is a family owned business. They have removed that manager and the team here
tonight is committed to working with their tenant and the town to bring the facility into
full compliance with what they hope can be an amended approval.
Members of the Frito Lay team (tenant) present reviewed the operational needs of their
facilities. Typically, they expect 24 hour per day access, in this case they have
determined that the hours as proposed tonight would more likely than not allow them to
remain in the facility, as 95% of their dispatched trucks are owned by Frito Lay.

The public hearing was closed and the Board began its deliberations. A review of hours
of operations of other business along the Route 12A and Route 120 corridor found that
while there are variations mainly approved hours of ranged from 5am to 8pm, with 6am
to 7pm being quite common. Board members furthered noted that all businesses are
different and each case is reviewed based on its merits. There are no standard hours of
operation, however, an expectation of quiet for an extended period of time each day is
customary in residential areas.

In general the board felt that 10pm is too late and that much of the activity on the site is
confined to before 6pm. This being the case Member Peter Martin moved to amend the
approved hours of operation in case 17-10 as stated in the attached decision which will
allow hours of operations to 5am to 8pm for all business activity seven days per week.
Up to two tractor trailer deliveries to be permitted each day, however no more than one is
allowed after 6pm. Further the activity of the small trucks is limited to 5am to 6pm seven
days per week. The motion was seconded and subsequently voted in the affirmative 4 to
0.

The meeting was adjourned at 9:45pm.

Stephen Halleran

Richard Colburn, Chair
MINUTES OF THE ZONING BOARD OF ADJUSTMENT
November 14th 2019
MERIDEN TOWN HALL

Zoning Board Members Present: Richard Colburn, Chairman
Brad Atwater       Bill McGonigle
Scott MacLeay

The meeting was called to order at 7pm. The minutes of the September 23rd meeting were approved as amended.

Case 19-04 Reinhart Sonneburg: A request for special exception #24 Approved Solar Energy System to allow for the installation of a single dual axis PV tracker at #94 Bonner Road. The property is zoned Village Residential. Chairman Colburn opened the hearing by asking the applicant to present the proposal. The unit will be located in the north east corner of the lot, near School Street. It has been located to satisfy all setbacks and will be constructed in conformance with the requirements of the town’s zoning ordinance section 3.18. The unit will be located adjacent to the right field of the school softball diamond as shown on the plan. The unit is approximately 220’ from home plate. A small deviation might occur with final site work, but any change would be within a foot or two of what is shown on the plan. The school has been notified of the hearing. Mr. Sonneburg noted that he is not concerned with balls hitting the unit. No abutters were in attendance to comment, the public hearing was closed.

The application was found to be in good order and complete. A motion to approve the unit as presented was made seconded and voted in the affirmative.

The meeting was adjourned at 7:35pm.

Stephen Halleran                    Richard Colburn, Chair