

**NORTHFIELD ZONING BOARD OF ADJUSTMENTS
MEETING MINUTES OF JULY 30, 2020**

Members Present: Kaitlin Lounsbury, Mark Hubbell, Manuel Pimentel, Cathy Keyser;
Others Present: Stephanie Giovannucci, Heidi Cole, Jason Durgin, Wayne Crowley, Scott Haskins, Daniel Luker, Tim Bernier
Present on Zoom: Bruce Howard, Melissa Howard, Karen Woodward, Ted Woodward, Jennifer Haskins, Kevin Waldron, Doug Read, Seth Greenblott, Kip Cormier, Regina Nadeau.

Meeting was called to order under the governors order #12 utilizing Zoom by Kaitlin Lounsbury at 7:00 PM.

- **Bruce and Melissa Howard** – Application to Appeal the Planning Board decision regarding the UPS Distribution Center located on South Park Drive (Map R14 Lot 5-4) in the Commercial Industrial Zone.

Mrs. Lounsbury started the meeting by explaining that Mr. and Mrs. Howard would like to appeal the Planning Boards decision regarding the UPS Distribution Center on South Park Drive.

Attorney Greenblott stated that he would be representing his clients Mr. and Mrs. Howard who were appealing the Planning Boards decision to classify the proposed use as a Warehouse. Attorney Greenblott stated that he would like to address some of Attorney Lukers filings from yesterday. The First one is if Mr. and Mrs. Howard have standing to pursue the appeal, they are not direct abutters to this lot but they are to this subdivision, and they feel they will be affected by light, noise, and ground water protection. There was also question if this was filed in a timely manner he feels as though there is a misunderstanding what they are here to appeal as they are appealing the Planning Boards Decision to adopt the primary use of this property as a Warehouse and feel the primary use of this facility is a freight terminal/trucking facility as there is no storing of goods being done here or very little.

Mrs. Lounsbury asked that Attorney Luker respond to what Mr. Greenblott just shared.

Attorney Luker introduced himself as well as Tim Bernier as he developed all the site work. Attorney Luker stated that they were at the Town Hall last September 2019 to go over the proposed use of the UPS Distribution Center and they received written confirmation from the Code Enforcement Officer that this would be classified as a Warehouse. He also stated that they were aware that the Groundwater Protection District is located in the back part of the parcel. Attorney Luker added that they took 8 months to plan and avoid affecting the Groundwater Protection District. Attorney Luker stated that they feel the Appeal is unacceptable and that the Planning Board relied on the Code Enforcements decision to make sure it was not a prohibited use under Groundwater District Protection. He stated that is pretty clear that the Planning Board went through all areas. Attorney Luker said in addition to the letter that was sent back in September and to now challenge 8 months later that it is not a warehouse even though everyone knew it was a warehouse. Attorney Luker stated that he doesn't feel like the applicants would be adversely effected because they sit 60 feet higher in elevation then the UPS Distribution Facility. He stated that he would like to have Mr. Bernier explain how the site was designed so that the groundwater goes through a recharge system and it doesn't go into the Groundwater protection district it gets collected in a closed drain system.

Mr. Bernier explained that the Howard's property sits uphill opposite from the river and it is not near their property. He said that it sits up almost 60 feet lower than the Howards home and there are three other commercial lots between UPS and the Howard's property

Mrs. Lounsbury opened the floor to abutters at 7:25 pm

Mrs. Woodward stated she is a direct abutters and she would like to bring to the Boards attention that the snow storage and trailer staging area is in the Ground Water Protection area and this is not an acceptable use. She also stated concern if there was a hydraulic brake leak it would go into the Ground Water Protection area.

There being no other abutters wishing to speak Mrs. Lounsbury opened the floor to non-abutters 7:27 pm.

There being none she closed the floor for comments from abutters and non-abutters at 7:28 pm.

Mrs. Lounsbury asked each attorney to go over the 5 issues that were raised by Attorney Luker in the letter dated 7/29/2020.

1. Whether the Appellants Have Standing to Pursue the Appeal:

Attorney Luker feels like there is no adverse impact for the Howards. He added that they have explained that they designed the site to drain northerly same thing for the melting snow, and that the Howards have not proved that they are grieved.

Attorney Greenblott stated that his clients sits over this property and the ground water protection district and their position to the ground water would be typical would encompass my clients.

2. Whether the Appeal is Timely:

Attorney Luker stated he feels the appeal is untimely due to Code Enforcement Officer giving written notification that classifies The UPS Distribution Center as a Warehouse and that was given in September of 2019, and the Howards did not appeal until May 29, 2020.

Attorney Greenblott said that the letter from the Planning Board unanimously adopted on June 1, 2020 was misinterpreted the definition of a Warehouse and that's when they filed their appeal in a timely manner.

3. Whether the Appeal should have gone to the Superior Court:

Attorney Luker stated that under 674:21 is an innovative land use control if appealing it should go to the Superior Court not Zoning Board of Adjustments.

Attorney Greenblott stated that under the Zoning Ordinance 6.2 it states that both special land use control general zoning ordinance under the ground water protection district calls for a special exceptions and the Planning Board improperly defined this distribution center. He stated if it was a grocery store or a retail store that stores goods it could be considered a Warehouse. He also stated because there is short term storage you have trailer trucks coming in overnight and they are sorting packages into 60 cargo cars that this should be considered a trucking terminal.

4. Whether the proposed principal use was properly classified as a Warehouse

Attorney Luker stated that the definition does not require long term storage use.

5. Whether the proposed facility is a "prohibited use" under the GP Ordinance:

Attorney Luker stated that the activity being performed does not pose any significant contamination risk.

Attorney Greenblott stated that #4 and # 5 are the same thing and he feels that Zoning Board should make the Planning Board figure out what use this falls under.

Mrs. Lounsbury closed public comment at 7:40 PM and opened up the floor to Board Members to ask questions.

Mr. Hubbell asked Attorney Greenblott why his letter that was dated June 24th stated that the Warehouse was not a permitted use. Attorney Greenblott replied that he and his clients don't dispute that it could be a warehouse, but the conclusion of the letter is that it is a prohibited use in the Ground water protection district. Attorney Greenblott added that he feels the Planning Board determined the wrong use, and he and his clients are not here to dispute what determination the CEO came up with, we are here to dispute what the Planning Board determined as the use.

Mr. Hubbell replied to Mrs. Woodwards comment stating that tractor trailer trucks have air brakes so there would not been any concern for any hydraulic brake leaks into the ground water protection district. He also added that he agrees with the Planning Boards decision as this is a warehouse not a trucking terminal, and that the building has a couple of service bays that are not anywhere near the Groundwater Protection District and that UPS clearing snow is not considered a snow dump.

Mrs. Lounsbury stated that she doesn't feel that the applicants have a standing appeal they are not direct abutters and they sit at a higher elevations than the facility leaving them with no impact to the Groundwater. She also stated that there are many broad statements being made that this effects other residents and surrounding Towns, but before them is the only appeal and she's not convinced that this adversely impacts the Howards.

Mr. Hubbell stated that this particular area has been zoned for Commercial/Industrial use for over 20 years and he doesn't see how this would impact them either.

Mrs. Lounsbury asked is this timely filed as it was coded a warehouse and the timing of minutes varies, It took them a while to appeal and she felt like they could have discussed this sooner.

Mr. Hubbell asked Mr. Durgin the Chair of the Planning Board for his thoughts. Mr. Durgin stated that for this to be questioned in June after the Code Enforcement Officer defined this use as a warehouse in September 2019, and the application for Site Plan was submitted in April of 2020 by UPS that the Howards timing was slightly delayed. He stated that he feels the reason for the appeal may be that they feel there should have been a special exception due to the ground water overlay and they are pinning this as a truck terminal as it stated in their June 24, 2020 request for approval that it be reversed due to it being a prohibited use, however the Planning Board reviewed this use multiple time and feel that the definition in the Zoning Ordinance fit the use.

Mrs. Lounsbury and Mark Hubbell both agreed that prohibited uses were already addressed. Mr. Durgin said that it was considered a warehouse and added that grocery stores and retail stores are not considered warehouses because people actually shop there to shop and UPS is not a freight company they are a package facility and that is why this is classified as a warehouse.

Mrs. Lounsbury stated that she fails to see any other definitions that would fit better, but Warehouse seems to fit best for this, the rest of the Board agreed.

Lounsbury/Keyser made a motion that the Northfield Zoning Board of Adjustments deny the appeal and uphold the Code Enforcements Officers September 2019 determination that the proposed distribution facility is a permitted Warehouse in the Commercial/Industrial district and confirm the Planning Board's determination that the proposed use is not a prohibited use in the portion of the property that lies within the Groundwater Protection District. – **Motion Passed unanimously**

Mrs. Lounsbury stated that the Board will get out a written decision in the mail as soon as possible

Being no other business the meeting adjourned at 8:02pm.

Minutes approved August 24, 2020