

**PLANNING AND ZONING COMMISSION
MINUTES OF A PUBLIC HEARING & REGULAR MEETING
JANUARY 21, 2010
PORTLAND PUBLIC LIBRARY
20 FREESTONE AVENUE**

Members Present: Bette Jenak, Carl Fitzgibbons, Mike Woronoff,

Members Absent: Don Bascom, Chairman, Peter Clark, Bruce Tyler (Alternate),
Peder Samuelson (Alternate)

1. Call Meeting to Order

Bette Jenak called the meeting to order at 7:00 p.m.

2. Introduction of Members and Seating of Alternates

Members introduced themselves.

3. Accept Agenda

Remove Item #4 from the agenda and replace Item #6 with 90-Day Extension for Application #09-07.

MOTION by Mr. Woronoff, **SECONDED** by Mr. Fitzgibbons to accept the agenda as amended. **VOTE UNANIMOUS. MOTION CARRIED.**

PUBLIC HEARING & DECISION

5. **Application #09-17:** 48 Gospel Lane. Special Permit request for the sale and distribution of petroleum products with no on-site fuel storage for DiMauro Heating & Oil Co. Application and property of Benjamin Srb. Map 31 Lot 28-2 Zone IP.

MOTION by Mr. Fitzgibbons, **SECONDED** by Mr. Fitzgibbons to open the public hearing for application #09-17. **VOTE UNANIMOUS. MOTION CARRIED.**

- Ben Srb, the applicant and property owner, spoke.
- Mr. Srb referred to the article that appeared in the paper. This application has nothing to do with propane or any storage of oil on the property. This application is for the parking of oil trucks. The trucks will be empty when they are parked at night.
- Mr. Srb went through Ms. Rhodes' memo dated 1/20/10:
 - Item 1 – OK.

- Item 2 – Mr. Srb said Section 8.1.2 this doesn't apply in this situation. This has to do with site development regulations not special permit regulations.
- Item 3 – Parking - The site was originally built to be six small units. The DiMauro unit is 2 out of 6 units. They have a doublewide unit. There are now 5 units. There is amply parking.
- Item 4 – Signage – There is already an approved sign for this lot. Mr. Srb doesn't intend on changing the sign.
- Item 5 – No problem adding the signature block.
- Item 6 – Waivers – The request for waivers was read into the record.
- Item 7 – Sections 10.4.B & 10.5.2.F.1 – The Commission must determine if all criteria has been satisfied.
- Don Mitchell has no problems because there are the same number of units and uses in the building.
- Fire Chief's memo was read into the record.
- Mr. Srb prefers not to put up a lock box for the key to the building due to insurance purposes. He gives permission for the Fire Department to break a window in case of a fire/emergency.
- Mr. Woronoff brought up the point that if there is oil stored in the trucks that the building must have sprinklers installed.

Public Comment:

- Bud Chapel is opposed to this application due to the following:
 - He feels we need a concise definition of petroleum products.
 - He says the building is being heated by oil. The application says no fuel storage on site. The Commission said that this oil is to heat the building and not for sale.
 - Mr. Srb said that the oil trucks would not contain oil when they are parked at night. Mr. Chapel feels the trucks won't be emptied. He would like this application denied and re-written.
 - Mr. Fitzgibbons pointed out that many people in town heat their buildings/homes with oil.
 - Mr. Woronoff explained why the application was written as it was. This is the use group that this application falls into.
 - Ms. Jenak read the bulk storage regulations.
- Charles Cone feels that the trucks won't be emptied when parked at night. Mr. Srb explained why and how the trucks would be drained. He said that 660 gallons is allowed to be stored per unit, but he won't allow oil to be stored in the trucks due to insurance purposes.
- Mr. Chapel feels the application is worded for sale and distribution of petroleum products. He says the application is flawed. It should be resubmitted with clearer wording. He is not comfortable with the Fire Marshall's statement.

- Frank Magnotta spoke about the right to store fuel for heating buildings. This application is for parking the oil trucks. The Commission doesn't regulate fuel storage for heating just bulk storage for sale and distribution of oil.
- Mr. Chapel tried to rebut, but Mr. Magnotta said rebuttal isn't allowed.

- Ms. Jenak read the following into the record:
 - Ms. Rhodes memo dated 1/20/10.
 - Memo from the Fire Chief dated 1/15/10.
 - Affidavit regarding the sign for the public hearing.
 - Transmittal review form with the Fire Chief's comment.

MOTION by Mr. Fitzgibbons **SECONDED** by Mr. Woronoff to close the public hearing. **VOTE UNANIMOUS. MOTION CARRIED.**

MOTION by Mr. Fitzgibbons to approve request for waiver of ZR Sections 10.5.2 Stamped Site Plan drawn by Design Professional and ZR Section 10.5.2.B Items #3, 7 thru 18 and 20, 21, 22 and 24 thru 27, for Application #09-17: 48 Gospel Lane, Special Permit request for Sale and Distribution of Petroleum Product with No On-site Fuel Storage (DiMauro Heating & Oil).

Reasons: The information in these sections is not necessary for review of this application.

SECONDED by Mr. Woronoff. **VOTE UNANIMOUS. MOTION CARRIED.**

MOTION by Mr. Woronoff to Approve Application #09-17: 48 Gospel Lane. Special Permit request for the sale and distribution of petroleum products with no on-site fuel storage, for DiMauro Heating & Oil Co. Application and property of Benjamin Srb. Map 31 Lot 28-2 Units 2 & 3, Zone IP, as shown on the site plan submitted and based on testimony and subject to the following instructions and conditions integral to this application:

1. That this approval will expire in 5 years.
2. That a zoning permit be issued prior for this use.
3. That the plan be revised to address Item #4 of the Planning Department memo dated 1/20/10.
4. That the certified letter of approval be placed on the plans and the mylar be filed on the land records within 180 days of the end of the appeal period; and that 2 paper copies of the complete plan be submitted. These requirements must be met prior to the issuance of a zoning permit.
5. That no fuel oil for delivery is to be in the tanks of the any trucks as required by the Fire Marshal's comments dated 1/13/10.

Reasons: The proposal conforms to Section 6.1, 8, 10.4, 10.5 of the Zoning Regulations.

SECONDED by Mr. Fitzgibbons. **VOTE UNANIMOUS. MOTION CARRIED.**

REGULAR MEETING

6. 90-Day Extension for Application 09-07

MOTION by Mr. Woronoff to approve request for 90-day extension to file required documents and mylars for Application #09-07: Michelle Drive (Sarra Estates I Subdivision) modification to a 2-lot resubdivision. Map 129 Lot 8-1 & 8-2 Zone RR. Application and property of Michael Foisie.

SECONDED by Mr. Fitzgibbons. **VOTE UNANIMOUS. MOTION CARRIED.**

7. Approval of Minutes – January 7, 2010

MOTION by Mr. Woronoff, SECONDED by Mr. Fitzgibbons to approve the minutes as read. **VOTE UNANIMOUS. MOTION CARRIED.**

8. Adjourn

MOTION by Ms. Jenak, SECONDED by Mr. Woronoff to adjourn the meeting at 7:55 p.m. **VOTE UNANIMOUS. MOTION CARRIED.**

Respectfully Submitted,

Debra D. Pozzetti, Board Clerk

TC, FS, BOS, PZC, Clerk, Planning, ZEO, Book, Library, CC Chair