

BARRE TOWN PLANNING COMMISSION MINUTES

The Town of Barre Planning Commission held its regular meeting and a public hearing on **Wednesday, January 21, 2015** beginning at **7:00** p.m. at the **Municipal Building**, Lower Websterville, to consider the following:

Members Present:

Charlie Thygesen George Clain
Chris Violette Ken Yearman

Members Absent:

Claire Duke John Hameline Cedric Sanborn

Others Present:

Jeremy Gagne Sylvia Relation

Staff Present:

Heidi Bennett – Board Clerk

1) **CHANGES TO THE AGENDA**

None

2) **APPROVAL OF MINUTES:**

Minutes will be approved on February 18, 2015

3) **WARNED PUBLIC HEARINGS (7:05 p.m.)**

AGENDA ITEM: ONE (1)

Zoning Bylaw Amendments

Article 2, table 2.1 – Change heavy industry from permitted to conditional use.

Article 2, table 2.2 – Exempt commercial and industrial use increased setback when abutting a cemetery.

Article 2, sec. 2.3 – Change zoning designation of part of Wilson Industrial Park from office building retail to industrial.

Article 2, sec. 2.3 - Change zoning designation of 33, 47, and 59 Bridge Street from low density residential to highway commercial. Also includes a very small section of land owned by the City of Barre that the bike path crosses at its start from Bridge Street.

Enclosures: Final Report

Consultant:

Date: January 16, 2015

**STAFF REPORT/REVIEW COMMENTS FROM CHRIS VIOLETTE,
PLANNING OFFICER**

All the statutory parties were notified and I also notified Lori Bernier as well.

The hearing needs to be opened and I will give a brief overview of the proposed changes. Then if there are people in the audience they can be offered a chance to ask questions. After everybody has a chance to provide input, the hearing can be closed with a motion to approve the proposed amendments and that the amendments be forwarded to the Selectboard with a recommendation that they approve them.

COMMENTS:

CV gave a brief recap of the zoning changes on the table for this evening.

Sylvia Relation asked if the setback will be 100' from her house; CV stated the setback is 100' when the industrial land abuts a residential property.

CV recommends approving the zone changes and move forward to the Selectboard

On a motion by Clain, seconded by Yearman, the Planning Commission voted unanimously to adopt the Zoning Bylaw as published and forward to the Selectboard for final approval.

All in favor

AGENDA ITEM: TWO (2)

Request by Jeremy Gagne for an allowed use determination to operate an auto repair business in an existing 32' x 30' garage on his property at 232 Miller RD; Parcel ID 005/086.01; Zoned: Medium Density Residential; AU-14000005

Enclosures: Written narrative and pictures provided by the applicant; comments from abutter Bullard.

Consultant: None

Date: January 16, 2015

**STAFF REPORT/REVIEW COMMENTS FROM CHRIS VIOLETTE,
PLANNING OFFICER**

This is a warned public hearing for the purpose of an allowed use determination in accordance with Article 2, sec. 2.4 (C) of the Barre Town Zoning Bylaw (Bylaw) whereas Mr. Gagne would like to use his garage located in a residential zone for commercial motor vehicle repair. The actual zoning of this parcel is medium density residential with minimum lots size of 2.0 acre when on-site sewer is being used. Water is also on-site. The predominate use in this area is residential in nature but there is some limited commercial uses close by.

Article 2, table 2.1 of the Bylaw doesn't allow commercial motor vehicle repair in medium density residential zones. Article 2, sec. 2.4 (C) allows, after public hearing, for the Planning Commission to approve a specific uses that are not allowed in a zone after a public hearing is held and if it is determined that the proposed use will not alter the characteristics of the area and will not cause an undue burden on the community.

Mr. Gagne has lived at 232 Miller Road for many years and has a 32'x30' detached garage next to his house. Mr. Gagne works full-time as an engineer outside of the house but also has a degree in automotive technology. Mr. Gagne would like to use the garage to perform part-time (possibly full-time in the future) commercial motor vehicle repair. As noted above, commercial motor vehicle repair is not allowed in the zone Mr. Gagne's house is located.

Mr. Gagne has provided a narrative addressing how his business would be run and how he feels it would affect the area and neighbors. He also submitted maps showing the location of the garage and how it is or isn't visible to neighbors. Answers to the AUD criteria were also submitted.

Below are the standards that the Planning Commission has used in the past to help make its determination of whether the proposed use will alter the characteristics of the area and cause an undue burden on the community. I have provided my thoughts regarding each criteria.

1. **Emergency services:**

The proposed commercial use is small, Barre Town's emergency services would be able to accommodate the proposed use.

2. **Water, sewer, or other municipal utility systems:**

The applicants property is not served by municipal sewer or water, both sewer and water are on-site. The applicants states no employees would be hired as part of his proposal, it would be just him. The small nature of the proposed use is unlikely to have much if any impact of the existing sewer or water systems.

3. **The character of the area affected as defined by the purpose(s) of the zone within which the project is located, and specifically stated policies and standards of the municipal plan:**

Below is the purpose statement of the medium density zone from the Zoning Bylaw

This principally residential district is designed to provide areas where moderate density residential development may occur in a rural-suburban setting. This district is similar to low density residential with the primary difference being that Medium Density Residential is located around the more developed areas of town and conditional uses vary. Municipal water and sewer may or may not be available.

Again this is primarily a residential area. There has been commercial activity just down the road at the intersection of Miller Road and Birchwood Parkway. That activity is pretty limited these days.

Motor vehicle repairs whether as a hobby or for commercial purposes can be a concern due to the potential of outside storage of vehicles in various states of repair. Presumably that potential and others such as traffic, noise, and odors, are reasons why motor vehicle repair was limited in zoning to commercial areas.

The presumption of all the issues above is painted with a broad brush and doesn't mean every use of the proposed nature would end up being a problem. However, it has to be considered. Having a motor vehicle repair business that has little or no regard for the surrounding area could certainly have an effect on the character of the area. By the same token, having one operated by somebody that is aware and conscientious of the appearance and potential disruption could fit in just fine.

The problem that the Planning Commission is faced with is how do you determine who is or who isn't conscientious with something that could certainly have a negative effect on an area.

4. **Traffic on roads and highways in the vicinity:**

The subject parcel is located off Miller Road which is a class II paved Town road. Miller Road is well built and in fact sees quite a bit of truck traffic. The limited nature of the proposed use is unlikely to have any negative impact on Miller Road and the traffic generated would likely not even be noticed.

5. **Zoning bylaws and bylaws then in effect:**

Article 2, section 2.4 (C) of the Bylaw allows for this review and if a finding of no negative effect on the neighborhood or a burden to the community is come to and a permit is issued, the proposed use will conform to Barre Towns Zoning Bylaw.

Uses that are considered within the Zoning Bylaw but not included in certain zones are done so for a reason and should be viewed differently, in my opinion, than uses that just aren't considered at all. Having been considered in the Zoning Bylaw means thought went into it and it was decided the particular use wasn't a good fit.

6. **The impact on neighboring uses;**

As detailed above, having a motor vehicle repair shop in a residential zone could have an impact on the residential neighboring uses. Having said that, what Mr. Gagne is proposing if always run as he describes probably won't have much impact. The question is how do you determine that for sure and for the next person that comes along proposing the same thing.

In Mr. Gagne's favor is that he doesn't have other houses extremely close by. The closest one is over 175' away and sits below his location. He is somewhat secluded and visibility by surrounding uses will be limited but not nonexistent.

7. **Minimum lot size;**

Mr. Gagne's lot is 1.85 acres in size which is below the minimum lot size of 2.0 acres but is conforming to the zoning that was in place at the time of creation.

8. **Off-street parking requirements in accordance with standards outlined in Article 3, Sec. 3.9 of this bylaw;**

Parking is generally determined by the square footage of the subject building. In this case Mr. Gagne's garage is 960sf in size. The parking chart for a commercial business would require 1 parking space for every 200sf of overall building use. That formula would require enough parking for 5 vehicles plus two for the residential use for a total of 7 parking spaces.

It appears that there is enough parking for 7 vehicles on the subject lot.

SUMMARY OF RECOMMENDATIONS & CONDITIONS:

Mr. Gagne's proposed use sounds pretty benign as proposed especially as a part-time business. Whether that changes if it became full-time I don't know. His proposed hours as a part-time use would be by appointment but with no real hours of operation. If it ever became full-time, he indicates the business would operate Tuesday thru Saturday, 8am to 5pm. A small sign would be sought for the entrance to the driveway.

While fortunate to not be real close to neighbors and enjoying some seclusion, there are still neighbors. I did hear from one neighbor (comments attached) who is not in favor of this proposal. While I think a part-time use would have very little impact I am concerned how we address others with similar request in the future. I do appreciate when people try to do things the right way by getting permits and presenting a project as Mr. Gagne has. Many would just do it.

I would like to have more discussion before making a recommendation.

COMMENTS:

CV provided a summary of this item for the Board.

Mr. Bullard sent in a letter stating that he's not in support of this project.

CV wants the Board to know that Mr. Gagne is going about this the right way, where others tend to do this and the Town has to play catch-up.

Gagne – would like to have Saturday's only, part-time and by appointment only.

Gagne stated that he's read Mr. Bullard's letter and can assure the Board that none of those issues will be on his property. This business is by appointment only, does not want people to come off the street. Very proud of his property and wouldn't do anything to compromise the aesthetics of his property.

Clain asked about tow trucks with dead cars; Gagne stated that he's not taking on big jobs that he can't turn around right away.

Clain asked if Gagne has been to the assessor or filed with the State of Vermont; Gagne stated this Board was step one.

Gagne stated that he's not sure if he'd have a sign or not. If so, it'd likely be under his mailbox.

Clain asked if Gagne was willing to table this item until he (Gagne) can figure out about personal property tax.

Thygesen asked about vehicle limit; Gagne stated he has enough parking and none is visible from the road.

Gagne stated that he wants quick turnaround jobs, not looking to spend every weekend in the garage.

CV stated that when the Board acts, and if for approval, conditions will need to be added.

On a motion by Clain to continue the request until February 18, 2015 by Jeremy Gagne for an allowed use determination to operate an auto repair business in an existing 32' x 30' garage on his property at 232 Miller RD; seconded by Violette.

DISCUSSION

Yearman stated that setting this off for a month is setting a precedent. The Board is not business counselors, and we haven't done this for any other conditional uses. The Board is overstepping. To put off a vote to have the applicant investigate is not how the Planning Commission functions. Yearman does not support putting this item off another month.

Clain called for a vote.

MOTION FAILED ON A 3-1 VOTE, WITH YEARMAN VOTING NO

DISCUSSION:

CV suggested adding some conditions.

Yearman stated the proposal is sound.

CONDITIONS:

- 1) Hours of operation – Saturday & Sunday 8-5 by appointment only
- 2) Number of vehicles working on – five vehicles with no overflow.
- 3) This approval is for part-time only, must come back to the Board for approval for full-time.
- 4) Will have one non-functional (non-registered/non-inspected) vehicle. All vehicles will be registered and inspected.
- 5) Sign will be what zoning allows.
- 6) This permit runs with the applicant, not with the land.
- 7) No additional employees.

On a motion by Violette, seconded by Yearman, the Planning Commission voted unanimously to approve the request by Jeremy Gagne for an allowed use determination to operate an auto repair business in an existing 32' x 30' garage on his property at 232 Miller RD; Parcel ID 005/086.01; Zoned: Medium Density Residential; AU-14000005; Approval is subject to listed conditions, 1 – 7.

4) **ZONING BYLAW AMENDMENT(S):**

No discussion

5) **OTHER:**

6) **CORRESPONDENTS:**

7) **ROUND TABLE:**

8) **ADJOURN!**

On a motion by Clain, seconded by Violette, the Planning Commission voted unanimously to adjourn the meeting of January 21, 2015 at 8:10 p.m.

Respectfully Submitted,

Heidi Bennett

Cedric Sanborn, Chair

John Hameline

Charlie Thygesen Sr.

Ken Yearman

Chris Violette

Claire Duke

George Clain