

**ZONING BOARD OF APPEALS
MEETING MINUTES
March 27, 2019
103 Marshall Street**

Members Present: Vaughn Hathaway, Chair; Jim Buckley, Mary Moore, Jim Reinke, Vice-Chair

Members Absent: David Orth, Clerk

Alternate Members Present: Richard Johnston

Staff Present: Michelle Buck, Town Planner

The meeting was called to order at 7:30PM.

Mr. Hathaway explained that the meeting are now being recorded live by LCAC and can be found on the town's website.

The Board reviewed the minutes and made some typographical and other corrections.

March 6, 2019 Minutes: 86 Willow Hill Road & 6 Lake Shore Drive

MOTION: Mr. Reinke moved to approve the minutes of March 6, 2019 for 86 Willow Hill Road and 6 Lake Shore Drive.

SECOND: Mr. Johnston. Discussion: None

VOTE: All in favor.

Public Hearing, 103 Marshall Street Special Permit:

Mr. Hathaway opened the hearing at 7:35PM and provided an overview of the hearing process. Voting members for this application as follows: Vaughn Hathaway, Jim Buckley, Mary Moore, Jim Reinke and Richard Johnston

Mr. Buckley read the hearing notice and application into the record.

Brief Description of Application: The proposed project is to modify the existing disc golf operation by building a 100'x 40' structure to be used as a commercial disc golf pro shop. The existing pro shop is proposed to be relocated to the new structure. A special permit is required to allow this modification and to allow a structure between the existing dwelling and the front lot line on the property

Mr. Hathaway opened the hearing up to the petitioner.

Jason Southwick, the Applicant, addressed the Board. He explained that he began a business in his home that has grown and he has very little space left. He stated that he did not want to grow his disc golf business so fast but he had to pick up the pace to keep up with demand. Mr. Southwick stated that his business is one of the top three disc golf websites. He said that about 63% of his business is selling discs on the internet. He stated a small piece of his business includes a golf disc course.

Mr. Hathaway asked Mr. Southwick to specifically describe what it was that he wanted to do. Mr. Southwick stated that he wants to build a steel building between his home and the road. He said that the proposed building would be located about 500 feet from the road and explained that the building would be a one story 40' by 100' rectangular steel building. Mr. Southwick said that the top of the building would be 19 feet high with one side of the roof covered in solar panels. He said that it will house the operational aspect of the business along with retail space and office space along with one bathroom for employees.

Mr. Hathaway asked Mr. Southwick to address increasing the parking spaces. Mr. Southwick said he would need to make additional parking spaces and commented that the existing parking lot is gravel. Mr. Hathaway asked if he would be adding additional parking spots to the existing lot and Mr. Southwick said that there will be an additional parking lot on the other side of the proposed building.

Mr. Hathaway asked Mr. Southwick to discuss where the proposed building would be located relative to the placement of his home. Mr. Southwick stated that the front of the pro shop will face his front door and said that the buildings will be about 300 feet apart. He said that the parking lot will be expanding by about 30%. Mr. Hathaway stated that it looked like he would need about 40 spaces.

Mr. Johnston commented the he took a ride by the Applicant's property on Sunday and was pleased to see that the parking lot was full. He stated that he believed that you won't be able to see the proposed building from the street and said that area is quite wooded. Mr. Johnston said that he didn't see any conflicts with abutting properties when he drove down Mulberry Street.

Ms. Moore asked Mr. Southwick how much of the foliage to the street did he plan to remove for parking. Mr. Southwick said that he will have to take down some of the Christmas trees his father planted in the 70's. Ms. Moore asked if once the parking lot is done if anyone would be able to see the building from the street. Mr. Southwick said that after some tree removal, people may be able to see a little bit of the building. He did assure the Board that between the Christmas tree field and the street there is a wooded section with a bunch of big pine trees to help shield the building.

Mr. Buckley asked Mr. Southwick if he anticipates there being more traffic due to the bigger facility. Mr. Southwick answered saying not right away; he said that he is hoping for slow growth. Mr. Buckley asked how many people visit the facility on a normal day. Mr. Southwick answered that on an average day there may be 25 people and said that on a real busy Saturday, there may be 100 people. Mr. Buckley asked if he thinks that will increase and Mr. Southwick said that he believed it would not be too much more.

Ms. Moore asked if he was affiliated with the disc golf place up the street and Mr. Southwick said it is a relative. He stated and that he did help them to build their business and they still do things together. Ms. Moore commented that sometimes they have overflow of parking onto the street that then creates a narrow street. Mr. Southwick stated that they have put up some signs and have been strict about it and that hasn't been happening as much now. He said that when they have a huge tournament is when they have to find extra parking.

Mr. Hathaway stated that he visited the site and saw where the existing parking was located and asked where the proposed building would be located. Mr. Southwick said the building will be offset from the driveway about 10 feet away. Mr. Hathaway asked Mr. Southwick to confirm that the front of the building will be pointed towards his house and the back would be pointed towards the road and Mr. Southwick answered yes. Mr. Hathaway stated that if they decided to move forward with this special permit, they will put a condition that no storage be kept behind the building and asked if Mr. Southwick would be fine with that and Mr. Southwick said yes.

Mr. Buckley commented about increased traffic and asked if Mr. Southwick anticipates an increase in inventory items and more shipping of items. Mr. Buckley asked if there would be more delivery trucks coming and going. Mr. Southwick said UPS comes once in the morning and again in the afternoon and he said that he does not anticipate that will change. He stated that they bring small packages to the post office themselves. Mr. Buckley read from the application submittal "There are currently about 30 spaces available, not including overflow parking. The plan is to add additional parking, in order to exceed Leicester's parking regulations, which sets the minimum number of spaces required for a retail establishment at 1 per 200 sq. ft. of gross retail floor area" and asked if he has already met that requirement with the current parking space. Mr. Southwick stated that he never checked the math. Mr. Hathaway stated that according to the math it would be 40 spaces and noted that Mr. Southwick already had 30 spaces.

Mr. Southwick stated that in his opinion he didn't need more parking spaces but that he was willing to make more in order to comply. Ms. Buck stated that he would require 20 for the retail space saying that would be in addition to the parking required for the disc golf. She said that the town does not have parking regulations specific to disc golf. Ms. Buck said that Mr. Southwick will need 20 spaces for retail and said that he has to demonstrate that he has enough spaces for the disc golf as well. Mr. Buckley asked Ms. Buck if the parking space issue had to be addressed for this petition and Ms. Buck answered that the Planning Board will look at the parking spaces more closely with the site plan review. Mr. Hathaway stated that Board's main concern is to make sure that no items will be stored behind the proposed building.

Mr. Vaughn asked Mr. Southwick if the septic system was large enough to handle the proposed building. Mr. Southwick said he spoke with Julie VanArsdalen, Board of Health, and his engineer, Jay Finlay, and said that they came up with the idea of tying into the existing septic. He stated that Ms. VanArsdalen was fine with that. Mr. Reinke stated that he would most likely have to expand the septic saying that the size of the leach field will most likely grow and might alter where he can place the proposed building.

Mr. Reinke addressed one of the conditions from 2004 that says no excessive lighting or noise. He stated that he was fairly certain that the parking regulation require lighting in the parking lot and asked Ms. Buck to confirm. Ms. Buck said it says "Adequate illumination shall be provided for the comfort and safety of persons using parking and loading areas". Ms. Buck asked Mr. Southwick if he was open after dark and he answered that they close at 6:00 PM right now but in a few weeks they will be closing at 7:00PM. Ms. Buck asked if Mr. Southwick wanted to put lighting and asked if he wanted that condition changed and Mr. Southwick said that he didn't need the lighting.

Mr. Reinke stated that this property was located in the SA district and read from the bylaw under section 3.2.03 *Business* saying “Any wholesale or retail business, research laboratory, service or public utility not involving manufacturing on the premises except of products the major portion of which is sold on the premises by the producer to the consumer”. Mr. Reinke commented that this bylaw was confusing and should be rewritten more clearly. Mr. Reinke asked Mr. Southwick if the portion of the business he was trying to build was the disc wholesale and selling and Mr. Southwick said yes, along with a retail store. Mr. Reinke asked if Mr. Southwick was actually producing the discs and Mr. Southwick answered no.

Mr. Hathaway continued to read from the bylaw saying “provided that the exterior of the building shall not be changed to look like a store, nor any new building be constructed to look like a store and provided that no merchandise shall be displayed outside the building”. Mr. Hathaway commented that he wanted to make sure that the structure was as far back as possible. Mr. Hathaway asked Mr. Southwick to explain how the proposed building’s exterior would look like and Mr. Southwick stated that the outside walls will have the roof metal look.

Ms. Buck noted that this use is allowed by special permit under the category of golf course [ZBL §3.2.06.3].

Mr. Southwick handed out pictures of the street to the Board showing where the proposed building would be located.

Ms. Moore asked if this building would have a different address and Ms. Buck answered no.

Mr. Reinke asked Mr. Southwick why he chose that particular location specifically. Mr. Southwick stated that it was located right next to the parking lot and it was farther away from the house than any other location. Mr. Reinke asked if there was anything unique about the topography of the land in that specific spot also asking if an engineer suggested that this was the best spot for the new building. Mr. Southwick stated that it was a flat spot and that also the best spot for solar.

Ms. Moore asked where the septic system was located and Ms. Southwick said it was behind his house.

Mr. Hathaway asked if there would be any additional signage by the road and Mr. Southwick answered that the existing sign by the road will not change.

Mr. Reinke asked if there were any abutters present. Peter Gentile stated that he owns property at 405 Mulberry Street and said that he did not have any issues with the building being 500 feet off the road. He said that you cannot see anything from the road when you drive by the property. He stated that he was one of the nearest abutters and that he had no objection to the building.

Mr. Reinke asked Mr. Southwick if he had an approved design for the septic and Mr. Southwick said he did not have an approved design. Mr. Reinke stated that he might spend a significant amount of money in regards to the septic and may have to move the building. Mr. Reinke stated

that Mr. Southwick would have to go before the Board again if he needs to move the building for the septic. Mr. Reinke asked the Board and Mr. Southwick if it would be wise for Southwick to do the leg work first for an approved septic design so he knows for sure that everything was good. Mr. Southwick reiterated that he checked with the Board of Health and his engineer and was told he would be fine. Mr. Southwick commented that he had done as much of the leg work that he could up to this point.

Mr. Moore stated that he would need to have a restroom and Mr. Southwick stated that there would be a restroom for employees.

Mr. Hathaway asked what type of language they could use instead of saying “junk cannot be stored behind the building” and Ms. Buck suggested saying “no outside storage of items between the proposed building and the road.” Board members agreed.

Mr. Reinke asked if Mr. Southwick had a dumpster and Mr. Southwick answered no. Mr. Reinke asked if he would be considering a dumpster and Southwick said he currently has weekly pickup. Mr. Hathaway suggested also adding no outside waste dumpster as a condition.

Mr. Reinke asked Mr. Southwick why he chose metal versus wood for the building and Mr. Southwick answered that the wood building would cost twice as much. Mr. Hathaway asked what kind of roof would be on the building and Mr. Southwick answered that it would be a gable roof. Mr. Southwick passed out a picture of the proposed building showing the roof pitch. Mr. Reinke asked what was the proposed color of the building will be and Mr. Southwick said they haven't specified a color yet. Mr. Hathaway suggested requiring a neutral color as a condition of approval.

Hearing no further discussion, Mr. Hathaway asked for a motion.

MOTION: Mr. Johnston moved to allow a special permit for a 4,000 square foot structure as shown on the specified drawing between the existing building and the property line located at 103 Marshall Street with the conditions as discussed.

SECOND: Mr. Buckley. Discussion: Mr. Buckley stated that he felt that the petitioner is in harmony with the intended purpose of the bylaw.

VOTE: 4 in favor/1 opposed (Mr. Reinke)

Instructions were given on the appeal process and the filing of this decision with the Registry of Deeds.

MOTION: Mr. Reinke moved to close the hearing.

SECOND: Mr. Johnston. Discussion: None

VOTE: All in favor.

General Board Discussion

Mr. Johnston asked if anyone had heard from David Orth about his future status and no one had heard anything yet.

MOTION: Mr. Reinke moved to adjourn the meeting.

SECOND: Mr. Johnston

VOTE: All in favor.

The meeting adjourned at 8:50PM.

Respectfully submitted,

Wanda Merced, Department Assistant

Documents included in meeting packet or otherwise sent to ZBA in advance of the meeting:

- Zoning Board of Appeals Agenda 3/27/2019
- Draft Minutes
 - 86 Willow Hill Road & 6 Lake Shore Drive 3/6/2019
- Hearing notice and Special Permit application: 103 Marshall Street

Documents submitted at meeting:

- Two pictures from the road showing where the proposed building will be located Lot
- Picture of proposed building showing roof pitch