

WEST LAKELAND TOWNSHIP

March 2, 2015

7:00 p.m.

Oak-Land Jr. High

Present

Present: Chairman Dan Kylo, Supervisor Steven Ebner, Supervisor Dave Schultz, Ms. Sue Agrimson, Township Clerk; Ms. Mary Rinkenberger, Deputy Clerk; Mr. Scott McDonald, Township Attorney; Ms. Marsha Olson, Treasurer, Mr. Duane Stensland, Building Inspector; Mr. Dave Dupay, Planning Commission Chair

Public Hearing – To consider alleged violations of the terms of the Home Occupation Use Permits granted to Robert J. Lind and Denise Lind, 1445 Neal Avenue North, West Lakeland. The hearing involves a Home Occupation Permit for two businesses issued to Mr. and Mrs. Lind. One business relates to storage and hours of operation of an event bus or busses stored on the Lind property. One business relates to storage of equipment and landscaping materials on the Lind property relating to a landscape/excavation business. The Town has received complaints relating to both business and there are allegations of violations of the terms of the permit.

Chairman Kylo called the public hearing to order at 7:00 PM. Mr. McDonald clarified that the purpose of the hearing was to gather evidence for the board to determine if the permits have been violated, and for the board to determine their next actions.

Mr. Greg Zinn, 1495 Neal Ave Ct, presented to the board a synopsis of his concerns and a video tape. Mr. Zinn provided his understanding of the history of the activity of the business uses back to June of 1999. Mr. Zinn cited letters dated September and December of 2011 requesting the removal of the buses. Mr. Zinn also noted that the permit allows a limited number of buses, and he has seen more than that number of buses on the property multiple times. Mr. Zinn noted the permit allows the bus for Mr. Lind's use. Mr. Zinn has seen other persons driving the buses, and considers that a violation of the permit. The permit for the landscaping activity does not allow for outdoor storage of landscaping materials. As for evidence of the exterior storage of landscaping materials, Mr. Zinn presented aerial photos dated Aug 2008 and a second aerial photograph estimated to be the winter of 07/08 or 06/07, noting dirt deposited on the lot in 2006 or 2007 and removed by 2008. Mr. Zinn also presented MLS listing photos of neighboring properties, showing piles of rocks and dirt in evidence in 2011 and gone in 2012. The video tape presented as evidence includes video of trucks being loaded and moved off the premises. In Mr. Zinn's opinion, he does not believe Mr. Lind will voluntary comply with the terms of the permits.

Mr. Steve Iverson, 1485 Neal Ave Ct N, also reported witnessing what he considers to be violations of the permits. He has seen buses operate on Friday night, but the permit allows activity on only Saturday and Sunday. He also reports seeing other persons than Mr. Lind driving the buses. He is concerned because the late night return of the buses is waking up the neighbors. Mr. Iverson has also witnessed persons other than Mr. Lind load up trailers with rocks or dirt and leave the property. Mr. Iverson notes he looks out on a commercial dumpster, which is not in the spirit of the neighborhood. Mr. Iverson also does not believe that Mr. Lind will voluntarily comply with the terms of the permits.

Mr. Steve Rolf, 1465 Neal Ave Ct N, presented a letter from Mr. Walt Christensen, who previously owned his home noting non-residential activity. Mr. Rolf bought his home with the understanding this was a residential development, and considers the activity by Mr. Lind to be non-residential. He noted a meeting with Mr. Lind and the neighbors, and indicated Mr. Lind agreed to find an alternative location for the buses and operate only on Saturday afternoon, returning Sunday morning,

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and Mr. Lind is often not the driver of the bus. On a weekend night, Mr. Rolf indicates he can be woken up three to four times. The brochure for the bus service indicates the service is available weekdays and provides 24 hour service, which is different from the hours indicated by the permit. Mr. Rolf noted observing excess traffic on and off the lot, and noted a comment from the contractor building his deck that the traffic seemed excessive for the neighborhood. He is concerned about the volume and speed of the traffic.

Mr. Dale Peleski, 1475 Neal Ave Ct N, owns the lot backing up to Mr. Lind. He also noted the buses arriving and leaving, being driven by other than Mr. Lind. He indicated he has witnessed boulders and dirt being loaded and removed from the property.

Mr. Dean Milbrath, 1545 Neal Ave Ct N, provided images taken from Google Earth indicating piles of rocks and dirt evident on Mr. Lind's property. He also used MLS listings to date the images, noting that the piles of rocks and dirt are reduced or gone over time, with truck tracks to each of the piles. Other images show three buses stored outside. Mr. Milbrath indicated he believes the exterior storage of the dirt and rock, and the exterior storage of the buses is a violation of the permits. Mr. Milbrath noted that Mr. Lind is a good neighbor, but his business has grown beyond the scope that can be operated as a home occupation. In his opinion, the business no longer belongs in a residential area.

Mr. Rolf, when asked about the frequency and timing of the occurrence, indicated that activity was evident in 2008/2009 when they moved into their property, and he sees violations weekly up to the present time. He said he is woken at least two weekends a month by the returning buses.

Mr. John Beulow, 13250 20th St N, drove by the property, and did notice Mr. Lind is building retaining walls, and the truck he observed was not overly large. He does not consider the activity to be egregious.

Mr. Vince Anderson, 1815 Hillside Ct, asked about the two separate permits and asked for clarification of the number of buses allowed. He also noted that the ordinance requires that activity be screened, and activity is clearly evident on the video tape submitted to the board. He also noted that Mr. Lind indicated that he has 10 employees and the township ordinance limits activity to one employee not living on the property.

Mr. Karl Auleciems, 1505 Neal Ave Ct N, considers Mr. Lind a good neighbor, and has not observed any of the bus activity, has not had issues with excess noise, and has not been disturbed by truck traffic. It is Mr. Auleciems' opinion that the level of violations is blown out of proportion, and would like to see Mr. Lind be able to maintain his business.

Ms. Julie Dahl, 5944 Foster Place, is Mr. Lind's sister, and noted that they are part of a large family, and are often coming and going from Mr. Lind's residence, generating traffic.

Ms. Dawn Sadler, 1390 Neal Ave N, does not see the level of traffic that is being discussed from her lot on the main road coming up the hill. She does not see that volume of bus traffic or truck and trailer traffic.

Ms. Jo Iverson, 1485 Neal Ave Ct, indicates she sees the buses and employees come and go at all hours. Ms. Iverson noted that the neighbors have tried to work out their concerns with Mr. Lind, but rather than reduce the activity, activity has increased over time.

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Mr. Dan Colvin, 1265 Neal Ave N, west of Mr. Lind's property, does not have any concerns. He often runs or bikes on that hill, and does not see the reported violations.

Mr. RJ Franscone, 1295 Neal Ave N, does not see any of the traffic issues, and considers Mr. Lind a good neighbor.

Ms. Susanne Auleciems, 1505 Neal Ave Ct N, indicates she is often out with her children, and has rarely seen bus activity, and has not seen the excessive traffic others have reported.

Ms. Silvia Zinn, 1495 Neal Ave Ct N, noted the purpose of the hearing is to consider violations of the permits issued 14 years ago. She indicated the neighboring residents have presented concerns and reported violations back to 2008. Violations of the permit should be grounds for revocation of the permit. It is her assertion that the ordinance does not allow for modification of the permit or granting additional time for compliance. Her family lives in this community because they wanted to live in a residential setting. The issue is not with Mr. Lind personally, but the issue of the repeated violations of the permit.

Mr. Doug Stone, 1310 Neal Ave N, indicates he will periodically see a bus or landscape truck go by. He noted Mr. Lind has built a berm to screen the view and has planted trees for additional screening. He would like to see a solution that allows Mr. Lind's business to continue.

Mr. Bob Lind noted that he was under the understanding from the initial permit that he was allowed five buses. He noted that the landscaping dirt and boulders were used for retaining walls and landscaping on his own property. As a landscape installer, he has materials delivered to the job site. He believes he has tried to work with the neighbors, including tearing down his daughter's playhouse and reducing the height of the garage. Mr. Lind noted he allowed township supervisors on his property to observe any time a concern was raised. Both the bus company and the landscaping company are well established, and he is not looking to grow either business. Without these permits, he would need to close the businesses. His equipment is well maintained and does not generate the level of noise or traffic volume being reported. He would like to see the permits clarified to eliminate the misunderstandings. Mr. McDonald asked about the video of the boulders being removed from the property. Mr. Lind noted they were to be used on his father's property, and were not sold. The fill and remaining boulders went into the grading and landscaping. When asked about overstock and excess material from a job, Mr. Lind noted that the excess was returned to the vendor. With regards to the volume of the traffic, Mr. Lind has three teenagers for a total of 5 drivers in the family, and a large extended family in the area.

Chairman Kylo called the public comment portion of the hearing closed at 8:37 PM.

Chairman Kylo commented on the concerns resulting from the number of employees, drivers and vehicles, and the storage of landscaping materials on the property. Mr. Lind noted he has five drivers and himself on his insurance. The hours for the bus traffic is mostly on Saturday, leaving between 1 and 3 PM, returning around 2 to 3 AM. For the landscaping business, he has two employees that will come for the truck with equipment and leave. He has two trailers, and will often haul trailers to and from job sites. Most of the landscaping employees will go directly to the job site.

Chairman Kylo noted that at the onset of the home occupation permit process, the permits were not as thorough as they could have been and specifications were often vague. The revision of the ordinance in 2002 provided more specific language.

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The board discussed the number of buses, and compared the various documents which indicated the number of buses and the implication of the contingency of where stored.

Chairman Kylo asked about the photos of the trucks leaving the site. Mr. Lind indicated the trucks were empty, and the landscaping materials on site were for his personal use. Mr. Iverson and Mr. Zinn indicated they have seen trailers being loaded and leaving the property.

Chairman Kylo suggested that the board take some time to review the material presented, and suggested the decision be tabled until the next regular meeting.

Supervisor Schultz noted that he is concerned with the vague language in the permit, and the conflicts over the number of allowed buses.

Ms. Pealski asked if formal inspections had been done of the permit for compliance, and if so, could the inspection results be provided. The site visits have been informal, not formal inspections. Chairman Kylo noted that the board has responded to each resident who reported concerns.

Supervisor Schultz moved to table the discussion until the April 2015 regular board meeting, and allow additional written comments in the interim with site visits by the supervisors individually done as unannounced visits. Chairman Kylo seconded the motion. With two aye votes, and a nay vote from Supervisor Ebner, the motion carried. Supervisor Ebner noted that he felt he had sufficient information for a decision, and did not need to table the discussion.

The public hearing was closed at 9:09 PM.

Call to Order

The regular meeting of the town board for March 2015 was called to order at 9:10 PM.

Approval of the Minutes

The minutes of the meeting of Feb 9 were presented for review. Supervisor Ebner moved to accept the minutes. Seconded by Supervisor Schultz, the motion carried.

The minutes of the meeting of Feb 25 were presented for review. Supervisor Schultz moved to accept the minutes. Seconded by Chairman Kylo, the motion carried.

Treasurer's Report

Ms. Olson presented the treasurer's report reflecting \$61,490.55 in receipts, and \$90,261.46 in expenses for a net change of \$28,770.91. Supervisor Ebner moved to approve the treasurer's report. Seconded by Supervisor Schultz, the motion carried.

Review and Pay Invoices

Supervisor Schultz moved to pay the invoices presented for payment. Seconded by Supervisor Ebner, the motion carried.

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Comments from the Public

Mr. Vince Anderson noted that the change to the township ordinance regarding event centers was done without a public hearing. To the extent that this is a zoning change, a public hearing may be required. Mr. McDonald suggested it be prudent to schedule a hearing.

Mr. Vince Anderson also asked about the need to hold a hearing regarding the expiration of building permits. The issue is raised because the state building code which the township has adopted by resolution, indicates 180 days, where the township ordinance indicates 90 days. The discussion will be tabled to allow Mr. McDonald to determine if a public hearing is required.

Purchase of External Drive

It was noted that the clerk did not have the capability of backing up her computer. It was recommended that an external drive of 1 TB be purchased. Supervisor Ebner moved to approve a purchase of up to \$70 for an external backup drive. Seconded by Chairman Kyлло, the motion carried.

Building Code Clarification

The board reviewed the potential conflicts between township ordinances and the State UBC adopted by resolution as identified by the building inspector. The first issue is the size of a storage shed of 120 sq ft or less, and if it counts as an accessory building and if a permit is required. This is not related to land use, so a permit is not required. This is a clarification of what is considered a building, and what requires a permit, which are two different issues. The second issue concerns the time for which the permit is valid. Mr. Stensland cited a difference between the UBC time period of 180 days, and the township time period of 90 days. Supervisor Ebner agreed to draft modification to the language to clarify and align the township code with the UBC. It was determined that neither clarification would impact zoning, so a specific hearing would not be required.

Additional Business

The board reviewed a draft resolution to address MIDS standards with the Middle St Croix Water Management Organization. No issues with the resolution were noted. Supervisor Schultz moved to authorize the chairman to sign the resolution. Seconded by Supervisor Ebner, the motion carried.

The board reviewed a joint powers agreement with Lake Elmo regarding seal coat. Baytown is not participating. Supervisor Ebner moved to approve the agreement. Seconded by Supervisor Schultz, the motion carried.

Supervisor Schultz brought forward a notice from Washington County that a permit will be required for work in the county right of way. Seal coat project may be impacted by that permit process.

Chairman Kyлло moved that Mr. McDonald be directed to draft and the clerk publish a notice for public hearing to review the modification of the allowed uses to specify an event center is not an allowed use. Seconded by Supervisor Ebner, the motion carried.

The board reviewed how the newly revised building permit fees were to be published on the township website. It was determined that a table to approximate fees was sufficient for that source, with the specific fee available from the building inspector.

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The kennel inspection fee of \$60 will also be added to the published fee scheduled.

The annual town board election will be held March 10, 2015 10 AM to 8 PM, followed by the annual town meeting at 8:00 PM.

Adjourn

Having no further business, Supervisor Ebner moved to adjourn the meeting. Seconded by Chairman Kylo, the motion passed. Chairman Kylo adjourned the meeting at 10:10 PM.

Respectfully submitted,

A handwritten signature in black ink that reads "Elizabeth Anne Vance". The signature is written in a cursive style and is centered on the page.

Elizabeth Vance