

**VILLAGE OF ESSEX JUNCTION  
ZONING BOARD OF ADJUSTMENT  
MINUTES OF MEETING  
September 20, 2011**

**MEMBERS PRESENT:** Tom Weaver (Chairman); Ron Gauthier, Jim Moody, Martin Hughes, Bruce Murdough.  
**ADMINISTRATION:** Robin Pierce, Development Director.  
**OTHERS PRESENT:** Mike Stuart, Mary LaPierre, Missy Stuart, Sharon Downs, Marcia Strassburg, Kristina Gurka, Fred and Karen Towler, Larry LaPierre, Ted Cayea.

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**1. CALL TO ORDER and AUDIENCE FOR VISITORS**

Chairman Tom Weaver called the meeting to order at 6 PM. There were no comments from the audience.

**2. ADDITIONS/AMENDMENTS TO AGENDA**

There were no changes to the agenda.

**3. MINUTES**

October 19, 2010

**MOTION by Ron Gauthier, SECOND by Martin Hughes, to approve the 10/19/10 minutes as written. VOTING: unanimous motion carried.**

**4. REVIEW/SIGN ETHICS POLICY**

Board members reviewed and signed the Ethics Policy document.

**5. ELECTION OF OFFICERS**

*Chairman*

**MOTION by Bruce Murdough, SECOND by Martin Hughes, to nominate and elect Tom Weaver as Chairman of the Essex Junction Zoning Board of Adjustment.**  
There were no other nominations. **VOTING: unanimous; motion carried.**

Tom Weaver is Chairman of the Essex Junction Zoning Board of Adjustment.

*Vice Chairman*

**MOTION by Bruce Murdough, SECOND by Martin Hughes, to nominate and elect Ron Gauthier as Vice Chairman of the Essex Junction Zoning Board of Adjustment.**  
There were no other nominations. **VOTING: unanimous; motion carried.**

Ron Gauthier is Vice Chairman of the Essex Junction Zoning Board of Adjustment.

**6. PUBLIC HEARING**

The function of the Zoning Board as a quasi-judicial board and the hearing procedure were explained. Individuals to give testimony before the Board were sworn in.

Appeal of Administrative Officer's decision to issue a Notice of Violation for a firewood business in a residential district at 15 West Street in the R-2 District by Raymond Reynolds, owner

Ray Reynolds appeared on behalf of the appeal.

**STAFF REPORT**

The Zoning Board received a written staff report on the appeal, dated September 20, 2011. Robin Pierce reported it was brought to staff's attention that the firewood cutting has increased substantially to more than personal use at 15 West Street. A site visit showed commercial equipment including a conveyor belt and chainsaws. There is no registration in the file for a home occupation involving firewood cutting at 15 West Street.

**APPLICANT COMMENTS**

Ray Reynolds, 15 West Street, testified he purchased the property in 1993 and has always heated his house with wood. In the past a small truck would bring in the wood to be cut at the house, but the supply would run out. A larger truck was used to bring in larger pieces (logs) to be cut. As fuel prices increased logs would be delivered and people wanted the cut wood. Mr. Reynolds said he supplies his mother's house with wood. Most of the cut wood is used by his mother and himself (about 80%). Some is given to his brother-in-law or other people in need. Mr. Reynolds testified he has had two construction accidents resulting in torn biceps and that is why he uses a semi-automatic woodcutter and chainsaw to continue to cut wood and handle the logs. His son who attends school in Williston has special needs and working with the wood is good for him. About 15 cords are sold to people on West Street and South Summit Street. The wood has been advertised on Craig's List. Six loads are received each year from DJ Tree Service, all locally cut trees. Each load yields five to six cords. About 30 cords per year are produced. Mr. Reynolds said he owns the wood until delivered to the customer's yard. The wood is local and a renewable resource. Cutting does not start before 8:30 AM and ends at 4:30 PM. Some work is done on Saturday and Sunday to finish up. All bark, branches and sawdust is cleaned up. It takes about six trips for six loads, in and out. The public does not come to the site. There is no traffic. There are no structures. There is no operation during the night or early mornings. The semiautomatic splitter is 11 horsepower. The lawn tractor is 24 horsepower and the garden tractor/tiller is 18 horsepower. The conveyor keeps the wood in one pile, dry and clean. Mr. Reynolds said he came in for a permit for his garage and discussed the woodcutting activity with Jeff Schulz who was the Zoning Administrator at the time, and Mr. Schulz said if there is no building structure or if traffic is not being generated then there is no need to discuss the matter further. Unfortunately nothing was written for the record.

Bruce Murdough asked the number of cords of wood from a load. Mr. Reynolds answered five to six cords. Mr. Murdough asked if people pay for the wood. Mr. Reynolds said most pay, but some wood is given away to help those in need.

Ron Gauthier asked when selling the wood began. Mr. Reynolds said he has sold wood for a long time. His son helps because his school teachers said this would be good for

him. The “Firewood for Sale” sign was posted three winters ago. Ron Gauthier noted a 2004 aerial photograph of the property at 15 West Street shows the welding shop, garden, 4-wheeler trail, but no log cutting.

Tom Weaver asked the days the business is operated. Mr. Reynolds said the wood is received late winter from DJ Tree Service from fallen trees in yards in the area so the wood is clean. The wood is cut and seasoned from May through the fall. Last winter there was the most wood on the property, about 30 cords.

#### PUBLIC COMMENT

Mike Stuart, 8 Adams Court (for nine years), said he lives 20 yards from the activity on the Reynolds property. The activity amped up in 2010 with large trucks coming in to dump logs which take two days to cut. Six loads a year are delivered. On Memorial Day weekend Mr. Reynolds cut wood the entire time. Equipment includes saws, bobcat, conveyor belt, bucket loader. Once the wood is cut and stacked it is quiet, but noise resumes when the wood is loaded for delivery. The activity is very noisy and out of character in a residential area, said Mr. Stuart, adding it is not possible to enjoy the outside area of the house. Mr. Stuart said he researched the record and found the neighborhood has been zoned ‘residential’ since 1963 with a home occupation being the most that has been allowed.

Ted Cayea, 38 South Summit Street, testified the Reynolds are noisy neighbors with 4-wheelers, skid steer bobcat, tractors, unregistered trucks. When woodcutting is done there are chainsaws, conveyors, skid steer bobcat and a loader running. Mr. Cayea said their fence was broken by the Reynolds and not properly fixed. Also, woodcutting has lasted to 9 PM on occasion. Mr. Cayea said they are forced to close all the windows and doors in their house due to the noise. The operation impacts all nine nearby neighbors.

Larry LaPierre, 6 Adams Court, stated the quality of air impacts his wife who has asthma forcing them to close all windows and doors when the woodcutting is in operation. Also, the site is an eyesore.

Sharon Downs, 10 Adams Court, spoke in agreement to the comments previously stated by neighbors to Mr. Reynolds, noting it is not possible to enjoy her yard on weekends or hold a conversation due to the noise.

Mary LaPierre, 6 Adams Court, stated the smell is horrid as is the noise, forcing windows and doors to be closed in the house when the woodcutting is occurring.

Fred Towler, 106 Seneca Ave., stated the “Firewood for Sale” sign is posted most of the time.

Marcia Strassburg, 104 Seneca Ave., pointed out Mr. Reynolds himself said he is in a business and he sells firewood. Ms. Strassburg said there is terrible, constant noise with the operation.

The following letters were received for the record:

Sarah Gratton, 143 Coventry Road, dated 8/5/11 (in support)

Cal Williams, date received 8/19/11 (in support)

Ross Perry, dated 8/17/11 (in support)

Shirley and William Boccio, 20 West Street, date received 8/19/11 (in support)

James Gibbons, 40 South Summit Street, dated 9/10/11 (in support)

There were no further comments from the public.

**MOTION by Martin Hughes, SECOND by Bruce Murdough, to close the public hearing on the appeal by Ray Reynolds, 15 West Street. VOTING: unanimous (5-0); motion carried.**

#### DELIBERATION/DECISION

Appeal, Notice of Violation, Woodcutting Operation, 15 West Street, Reynolds

#### FINDINGS OF FACT:

1. The subject property is located in the Residential-2 District.
2. Village of Essex Junction issued a Notice of Violation to Raymond Reynolds for operating a firewood business in a residential district.
3. Commercial activities are not permitted in a residential neighborhood.
4. The appellant feels that he was given verbal permission by Jeff Schulz, former Zoning Administrator for the Village of Essex Junction, for the firewood business in the mid-1990s, but there is no record of the firewood business at the 15 West Street address in the Planning Department files.
5. The appellant stated that he processes 30 cords of wood per year.
6. There was testimony that there is a sign advertising firewood for sale on the premises.
7. The appellant stated he sells about 15 cords of wood per year.
8. The appellant said he has advertised the business on Craig's List.
9. The Zoning Board of Adjustment considered the criteria for home occupation which is allowed in the zone and concurred the firewood business does not meet the criteria.
10. There were numerous public comments expressing concern about the operation being a business.
11. Letters were received for the file both in support and in dissent of the firewood operation.

#### CONCLUSION:

1. Findings #1-#11 demonstrate there is a firewood cutting operation on the premise at 15 West Street.

**MOTION by Ron Gauthier, SECOND by Jim Moody, based on the Findings and Conclusion to uphold the Administrative Officer's decision to issue a Notice of Violation to Raymond Reynolds for operation of a woodcutting business at 15 West Street based on review of Section 620 and Section 711 of the Land Development Code. VOTING: unanimous (5-0); motion carried.**

Variance application for an eight foot high chain link fence for the Fairview Farms pool at 31 Juniper Ridge Road in the R-1 District by Fairview Farms Homeowners Association, owners

Kristina Gurka, representing the Fairview Farms Homeowners Association, appeared on behalf of the application. Martin Hughes, a member of the Fairview Farms Homeowners Association, recused himself.

**STAFF REPORT**

The Zoning Board received a written staff report on the application, dated September 20, 2011. Robin Pierce stated the eight foot high fence will be tied into the existing fence at the tennis courts which is of even greater height.

**APPLICANT COMMENTS**

Kristina Gurka explained there is a four foot high fence around the pool area now which is easy to climb. The pool liner was slashed last year and the police feel it was an act of vandalism. The liner had to be replaced. Security cameras were installed and a neighborhood watch program was initiated, but the liner was again cut so a security guard was hired. People were caught by the pool after hours. Other neighborhoods with pools in the village and area towns have fences higher than four feet. The police and security guard are in support of a higher fence. A non-climbable chain link fence with a gate that closes and locks automatically is proposed. The fence will extend from the tennis court fence. The small fence separating the children's pool from the adult pool will remain.

**PUBLIC COMMENT**

There were no comments from the public on the application.

**MOTION by Ron Gauthier, SECOND by Bruce Murdough, to close the public portion of the variance application for a fence at the Fairview Farms pool (31 Juniper Ridge Road). VOTING: unanimous (4-0); motion carried.**

**DELIBERATION/DECISION**

Variance, Fence around Pool, 31 Juniper Ridge Road, Fairview Farms

**FINDINGS OF FACT:**

1. The property is in the R-1 District with a lot size of approximately 52,662 s.f.
2. Minimum lot size in the R-1 District is 15,000 s.f.
3. The existing fence is approximately four feet high.
4. Pursuant to Section 707.B.1, any fence over six feet shall be deemed a structure and must meet the applicable setback requirements.
5. The homeowners association needs the fence to deter illegal entry to the pool complex to enhance safety and reduce the potential for vandalism and increasing problems with noise due to illegal entry to the complex, especially after hours.
6. The applicant testified the new eight foot high fence will tie into the 12' high fence around the tennis courts creating a coherent fence line.
7. The new fence replaces the existing four foot high fence which meets all the setback requirements.

8. The eight foot high fence will not obstruct views from any roads or bike paths in the area.
9. The eight foot high fence is the minimal height required for security and safety reasons.
10. The proposed eight foot high fence is a structure and meets the necessary setback requirements.
11. There were no comments from the public for or against the application.

**CONCLUSION:**

1. Findings #1-10 satisfy Section 707.B.1.

**MOTION by Jim Moody, SECOND by Bruce Murdough, based on the Findings and Conclusion to grant the variance request by Fairview Farms Homeowners Association for the purpose specified (for relief from the six foot height requirement for a fence at the Fairview Farms pool at 31 Juniper Ridge Road in the R-1 District). VOTING: unanimous (4-0); motion carried.**

Martin Hughes returned to the Zoning Board.

**7. OTHER BUSINESS**

None.

**8. ADJOURNMENT**

**MOTION by Ron Gauthier, SECOND by Bruce Murdough, to adjourn the meeting. VOTING: unanimous (5-0); motion carried.**

The meeting was adjourned at 7:15 PM.

*RScty: M.E. Riordan*