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TOWN OF PLAINFIELD DEVELOPMENT REVIEW BOARD

Findings of Fact and Conclusions of Law

Decision on the application of: Peter Young DBA Second Wind LLC
Re: Conditional Use Review for Cottage Industry

Permit Application No. 2013-06

PROCEDURAL HISTORY

1. This proceeding is a review of an application for a cottage industry submitted by **Second Wind LLC (Peter Young)** for his lessee **Black Bear Biodiesel LLC (Jim Malloy)**.
2. The application was received by zoning administrator Karen Storey on 4/14/2013. A copy of the application is available at the Plainfield town offices. Application included the following:
 - photocopy of the tax map showing the location of the proposed use and the abutting properties
 - photocopy of survey showing the location of existing building on parcel and adjacent roadways
 - *additional*: a copy of the ANR compliance memo referred to by applicant at hearing was requested and later submitted

The documents listed above are available for viewing at the town offices.

3. On April 23, 2013, notice of a public hearing was published in the *Times Argus*.
4. On April 19, 2013, notice of a public hearing was posted at the following places:
 - a. Plainfield Town Offices
 - b. Plainfield Post Office, which is within view of Rt. 2, the public-right-ofway most nearly adjacent to the property for which the application was made.
 - c. Plainfield Co-op
5. On April 11, 2013, a copy of the notice of a public hearing was mailed to the applicant. On April 11, 2013, a copy of the notice of public hearing was mailed to the following owners of properties adjoining the property subject to the application:

Tori Campbell	David Spidle & Shannon Spidle
Claire Dumas	Scott Stewart
Michael J. Palumbo	R. L. Vallee, Inc.
Patricia Scannell	Fairpoint Communications
6. The application was considered by the Development Review Board (hereafter "DRB") at a public hearing on May 8, 2013. The application was reviewed under the Plainfield Zoning Regulations, as amended March 1, 2011.
7. Present at the hearing were the following members of the Development Review Board:

Janice Walrafen, chair	Neil Hogan
Rob Bridges	Sarah Albert
8. The following persons were present at the hearing and requested status as interested persons

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Scott Stewart
Patricia Scannell

Jill Bessette
Gary Graves

DRB FINDINGS & CONCLUSIONS

1. The applicant, Peter Young, seeks a conditional use permit for his lessee, Jim Malloy, DBA Black Bear Biodiesel LLC, hereafter referred to as BBB, in order to operate a cottage industry for the collection and storage of vegetable oil. The subject property is a .61 acre parcel located at 252 High Street (US Rt. 2) in the Town of Plainfield (tax map parcel no. 201-0252).
2. The property is located in the **Village** District as described on the Town of Plainfield Zoning Map on record at the town office and section **4.4** of the Zoning Regulations. The building is not in the historic district.
3. Conditional use approval is requested for the project as a **Cottage Industry** as that term is defined in section **1.7** of the Zoning Bylaw. The application requires review under the following sections of the Town of Plainfield Zoning Regulations:
 - 2.8 Conditional Uses
 - 3.5.2 Cottage Industry
 - 3.13 Parking
4. Applicant presented the following information regarding his business:
 - The lease between Second Wind LLC (Peter Young) for his lessee Black Bear Biodiesel LLC (Jim Malloy) will be for 5 years, with an option to renew for another 5 years.
 - BBB intends to collect vegetable oil from area restaurants in steel barrels and deliver it to the High St. location where it will be transferred to holding tanks for settling. There will be one 3000 gallon and two 5000 gallon tanks, constructed of plastic and steel. A heating coil, fueled by biodiesel, will keep the oil in the tanks from solidifying. Since oil be be transferred from one tank to another as part of the settling and filtering process, there will be no more than 8000 gallons in the tanks at one time. The ultimate end product will be biodiesel, but the vegetable oil will be transported to another location for the conversion. They plan to use a septic tank-type truck, not yet purchased, to suck the filtered oil into the truck for transport off site.
 - Jim Malloy has contacted the Agency of Natural Resources (ANR) regarding any necessary state permits and states that none are required. He will submit a project memo that was done for his business. He has also contacted the Plainfield Water & Wastewater Commission and no further action is required.
 - Peter Young applied for and received an access permit from the town to access his property from Robert's Lane, a class 4 highway. He intends to install a culvert in the existing draining ditch. In addition to a direct access to Rt. 2 from his property, he also has a R.O.W. through the adjacent property of R. L. Vallee (the former Red Store). The Robert's Lane access is intended only as a secondary, should the current R.O.W. become unuseable.
 - Jim Malloy foresees that he will need to apply for a Light Industry designation as his business expands.
4. In accordance with Section 2.8 Conditional Uses, the DRB found that the proposed use will not have an undue adverse affect on:

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- b) the character of the area: the location was previously used as an auto garage; the proposed cottage industry to collect and store vegetable oil will not be visible from outside the building except during loading and unloading. There will be no changes to the outdoor lighting on the property. BBB will apply for a permit for any signage.
 - c) Traffic on roads and highways in the area: the truck trips to deliver barrels, estimated at a two trips a day, will be less traffic than occurred during the time Gary had the garage.
 - d) Utilization of renewable energy resources: BBR will use a pickup truck that runs on biodiesel to pick up and transport barrels.
5. Additionally, the DRB made the following findings on specific standards for Conditional Use:
- a) Applicant states that there will be no fumes, odors or sounds beyond what a normal residential heating system would produce. Conversion of the vegetable oil to biodiesel will take place offsite. In the case of spillage, any vegetable oil will be contained within the building by a ±8-inch high containment dike that BBB will construct inside the perimeter of the building. Other improvements to building will include better insulation and sheetrock.
 - b) The DRB does not impose conditions regarding open spaces or additional setbacks because the proposed use is utilizing an existing building.
 - c) No additional landscaping and fencing will be required since the proposed use will take place inside the existing building.
 - d) There is adequate on-site parking to accommodate employees and business vehicles.
 - e) The proposed use is in conformance with the Town Plan, in that it is located in the Village district, particular with respect to the Energy section goal: *“Create a sustainable energy future: one that minimizes environmental impact, supports our local economy, and emphasizes energy conservation, efficiency and the increased use of local and regional clean, renewable, environmentally sound energy sources.”*
6. Under Section 3.5.2, the DRB made the following findings on specific standards for Cottage Industry:
- (a) The Cottage Industry does not occupy more than 3000 square feet of a legally established unit or accessory buildings to the unit: ***The building to be occupied by the cottage industry is 1500 sq. ft. in area of which all will be utilized.***
 - (b). The Cottage Industry shall be carried on only by no more than five employees: ***There will be two employees in addition to the business owner, Jim Malloy.***
 - (c) Effects of sales will be incidental and non detrimental to character of neighborhood: ***There will be no sales taking place at this location under this permit.***
 - (d) Limited outside display of products may be allowed subject to conditional use permit: ***There will be no display or storage of products outside the building except that empty steel barrels may be stored on the back side of the building.***
 - (e) The Cottage Industry must be easily convertible to a barn or permitted use or be removable: ***The business will take place in an existing building; no new structures are planned at present.***
 - (f) The Development Review Board, as part of conditional use approval, shall establish hours of operation, which assure that the Cottage Industry does not disturb neighboring residences: ***Employees may be present between the hours of 7 am and***

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Items 3 & 4 under Section 3.5.2, regarding Structures and Building Plans, are not applicable since the proposed use will occupy an existing building.

7. Under Section 3.13 Parking, applicant is required to **have** one parking space for every motor vehicle used in the business, plus one parking space for every one hundred square feet of floor area. BBB anticipates the use of one truck initially with a possible second truck later on. With a building square footage of 1500, this would mean providing parking for 17 vehicles. The parcel is large and level enough to accommodate more than the required number of vehicles.

DECISION AND CONDITIONS

The Development Review Board votes to approve the application for a cottage industry subject to the following conditions:

1. Hours of operation are between 7 am and 7 pm.
2. There will be no outdoor storage of vegetable oil; empty steel barrels may be stored on the back side of the building.
3. No development of the access to Robert's Lane will occur without notification and consultation with the neighbors who currently use it to access their properties.

Voting in favor: Janice Walrafen, Rob Bridges, Neil Hogan and Sarah Albert. The decision carries 4-0.

Dated at Plainfield, Vermont, this ___ day of _____, 2013.

Janice Walrafen, Chair

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.