

**Town of Plainfield**  
**Development Review Board (DRB)**  
**Minutes of Meeting held on September 23, 2015**

**Final Minutes Approved on: October 14, 2015**

**Present:**

\_\_\_x\_\_\_ Janice Walrafen, Chair

\_\_\_x\_\_\_ Rob Bridges

\_\_\_x\_\_\_ Neil Hogan

\_\_\_x\_\_\_ Sarah Albert, Clerk

(Full DRB in attendance)

**Also Present:**

Karen Storey – Zoning Administrator (ZA)  
Mary Lane – Administrative Assistant  
Jon Anderson – Attorney for R.L. Vallee  
Jim Malloy – Black Bear Biodiesel  
Scott Stewart – Interested Party  
Tim Phillips – Interested Party  
Charlie Cogbill – Interested Party  
Gary Graves – Interested Party  
Scott Emery – Black Bear Biodiesel (arrives late)

**6:54 P.M. – Chair Walrafen Calls Meeting to Order.**

**Agenda Item #1 – 6:55 P.M. – Review/Adjust Agenda.**

- Z.A. Storey reports she received the site plan from the Health Center, and would like to discuss this at the end of the meeting.

## **Agenda Item #2 – 6:57 P.M. – Review/Adopt Minutes from September 9, 2015 Meeting.**

- DRB Member Bridges makes a change in wording from “if” to “whether”. He makes a **motion** to accept the minutes as amended. Member Hogan seconds and the motion passes 4 – 0.

## **Agenda Item #3 – 7:00 P.M. – Black Bear Biodiesel LLC (BBB), Zoning Permit Application 2015-23, Conditional Use amendment to Zoning Permit 2013-17 CU. Amend permit to distribute not only pure biodiesel (B100) but sell blended biodiesel.**

- Chair Walrafen asks Jim Malloy, owner of BBB to state the reason he comes before the DRB. Mr. Malloy states he is applying to amend the Conditional Use Permit from selling only pure biodiesel (B100), to selling biodiesel blends. He states these blends will be predominantly biodiesel, but he would like to be able to sell year round, so diesel needs to be added in order to keep the biodiesel from gelling in cold weather.

- Karen Storey, Z.A. presents the history of the permitting process for BBB. She also states she received a letter sent by R.L Vallee’s Attorney, Jon Anderson, directly before the meeting. For that reason, she could not send it to the DRB members to review.

- DRB member Bridges reads the letter outloud, which Mr. Anderson titles a, “statement of concern”, and includes a list of 4 concerns of the “proposed project” because of the impact they believe it will have on the residential retail space they are currently renovating located next door to the East of BBB.

- The DRB members address each concern in the letter:

1. “A Motor Vehicle Fuel Sales Use is not permitted is not an allowed or conditional use in the Village District”. (sic)

- Clerk Albert states the Zoning Regulations do not stipulate specific uses. Discussion ensues about the blends Mr. Malloy intends to use. He states he plans on using whatever blend the weather will demand, as the colder the temperature, the higher the amount of diesel is needed to keep the biodiesel from gelling. He states he intends to use the highest amount of biodiesel possible to displace diesel, going from the pure B100, to B20 (20% biodiesel to 80% diesel) in the coldest months, and a lesser diesel amount, 50%, in the fall. He reports he will use a “splash blending” method, which is when the blend is created in the tank, not at the pump. He states they built the facility to the specifications of a diesel operation, so he does not believe he will have any problem getting a permit from the Agency of Natural Resources (ANR). He states he wants to go through the DRB first to make sure the town is on board,

and then go to the ANR. He does not believe the statement "the operation would be indistinguishable from a truck stop", is a concern that is true. Mr. Malloy states truck drivers are not going to wait the amount of time it would take to fill their tanks at BBB.

- Mr. Anderson asks there be conditions that specify and limit the percentage of blends Mr. Malloy can sell. Chair Walrafen reminds Mr. Anderson that Mr. Malloy stated he wants to displace as much diesel as possible, so he will not be selling pure diesel. Mr. Malloy agrees with that statement.

2. "The proposal must be conditioned so that it really is a Cottage Industry use", and that the conditions "limit the impact of the proposal on neighbors in downtown Plainfield so that the project does not become an illegal truck stop".

- Clerk Albert states the preliminary application was for Cottage Industry use, but the DRB later voted to approve the conditional use permit for a retail commercial business consisting of a distribution center for biodiesel and up to four mobile food trucks. Chair Walrafen reads from the June 6, 2014 minutes of the Remand Hearing, a portion of the "Notice of Public Hearing" that states, "The approved project is only for the sale of B100 biodiesel, without prejudice to a future application for the sale of biodiesel blends, including that such application shall not be subject to the "flexibility versus finality" permit amendment standards and analysis, set forth by the Vermont Supreme Court in *In re Appeal of Hildebrand, 2007 VT 5, 181 Vt.568.*"

- Mr. Anderson attempts to make a case that the wording in the Zoning Regulations, would not allow for a retail commercial business within the Village and a discussion ensues about the definition of commercial "goods" and "services". Z.A. Storey reads from the regulations, the definition of "Commercial Use" which states, "the use of a building or land or portions thereof for the purchase, sale or exchange of goods and commodities, services and amenities". The DRB members agree, zoning for commercial use, allows BBB's retail commercial business within the Village boundaries, and is not an illegal truck stop.

3. "Possible Zoning Permit Violation at the Site"

- The DRB members and Mr. Anderson agree to strike this concern as the paperwork for the canopy was missing from Mr. Anderson's packet, and was located prior to the meeting.

4. "Wetland Violations at the Site"

- Mr. Anderson produced a map showing a greatly enlarged area of wetlands than the map used during the permitting process. Mr. Stewart, who owns most of the property where the wetlands are located on this recent map, states he does not agree with the increased area of wetlands on Mr. Anderson's new map. He also questions who gave permission to the company who created the map, to survey on his property. The problem, according to Mr. Anderson, is

the gravel driveway located within the wetlands buffer area. He reports Second Wind LLC, who owns the property, did not obtain a wetlands permit. The DRB members state that the map is not an official State map, and was created by a private engineering firm in July 2015, which is after the permit application was approved.

- DRB member Bridges makes a **motion** to approve the Black Bear Biodiesel LLC Zoning Permit Application 2015-23 Conditional Use amendment to Zoning Permit 2013-17 CU Amend permit to distribute not only pure biodiesel (B100) but sell blended biodiesel, as submitted. DRB member Hogan seconds the motion. Chair Walrafen states the blend will not affect any of the conditions. There is no more discussion, and the motion passes 4-0.

Jim Malloy, Scott Emery, Tim Phillips, Jon Anderson and Gary Graves exit the meeting.

#### **Agenda Item #4 – 8:05 P.M. – Health Center Site Plan.**

- Discussion about the site plan and letter Z.A. Storey received from the Health Center. The updated site plan failed to comply with the requested unified site plan created by an engineer displaying the architecture, lighting, signage, and landscaping, etc. currently on the property. The site plan that was sent included hand drawn symbols and notes, and did not include all of the items requested. The DRB members decided Chair Walrafen would respond in writing to Linda Bartlett with detailed instructions of what is to be included on a single professionally created site plan. This letter will be based on a document Z.A. Storey created for the Health Center file, listing the various site plans by identifying number and what each one displayed. These will have to be combined on one site plan. Chair Walrafen will seek the DRB member's approval of the letter prior to sending it to the Health Center.

#### **8:30 P.M. – Meeting Adjourned.**

- Member Bridges **moves** to adjourn the meeting at 8:30 P.M., and Clerk Albert seconds the motion, which passes 4-0.

Respectfully submitted,  
Mary Lane, Administrative Assistant