



TOWN OF CONCORD PLANNING/ZONING BOARD

APPLICATION FOR CONDITIONAL USE REVIEW FINDINGS AND DECISION

RE: Shawn Savage
2070 Oregon Road
East Concord, VT 05906

Permit Application No.: 018-006

INTRODUCTION AND PROCEDURAL HISTORY

This proceeding involves review of an application for conditional use submitted by Shawn Savage under the Town of Concord Zoning Bylaws.

The application was received by Zoning Administrator Alan Smith February 22, 2018. A copy of the application is available at the Zoning Administrator's office in the Concord Municipal Building.

On April 11, 2018, a notice of public hearing was published in The Caledonian-Record.

On April 9, 2018 the notice of public hearing was posted at the following places:

- The Concord Municipal Building
- On a stake on Oregon Road adjacent to the property
- The Town Clerk's Office
- The Concord Post Office

The notice was posted on the Concord web site at www.concordvt.us.

On April 5, 2018, a copy of the notice of a public hearing was mailed to the applicant. On April 5, 2018, a copy of the notice of public hearing was mailed to the following owners of properties adjoining the property subject to application.

- Mr. & Mrs. Edward Berry, 1988 Oregon Road; East Concord, VT 05906
- Mr. & Mrs. Barry Byron, 347 NH Route 175; Holderness, NH 03245
- Mr. & Mrs. John Giddings, 2125 Oregon Road; East Concord, VT 05906

Town of Concord
Zoning and Planning Board
PO Box 317
Concord, VT 05824

- Mr. & Mrs. Terence Gilman, 70 Middle Turnpike W; Manchester, CT 06040-4031
- Mr. & Mrs. Eric Heins, 452 Park Street; North Reading, MA 01864-2133
- Christine Moore/Elogene Weliever, 50 Wells Road; Dalton, NH 03598

The application was considered by the Zoning Board of Adjustment at the public hearing held on April 26, 2019. Present at the hearing were the following members of the Zoning Board of Adjustment: Cynthia Stuart, John Christman, James Gochie, Linda Hartwell & Judy Kurtz.

The Zoning Board of Adjustment reviewed the application under the Town of Concord Zoning Bylaws, as amended December 6, 2016.

At the outset of the hearing, Chairperson Stuart requested that all board members disclose all potential conflicts of interest. No board members indicated any potential conflicts. The Zoning Board of Adjustment also afforded an opportunity for persons wishing to achieve status as an interested person under 24 V.S.A. § 4465 (b) to demonstrate that the criteria set forth in that statute could be met.

Cynthia Stuart read the notice for the Shawn Savage hearing. Cynthia explained the process of the hearing and swore in Shawn Savage. Mr. Savage said he buys and sells cars and does repairs on his Oregon Road property. He realized he needs board approval and that is why he is here. He stated that all the vehicles on his property are registered to him soon after they are purchased. Mr. Savage said he had started to build a fence to put on the property and indicated where the fence would run when it was completed. Cynthia said the town received past complaints about his facility and asked if he was aware of the complaints. He said he thought they were because of the traffic on the road. Judy Kurtz indicated her concern about the number of vehicles on the property John Christman asked about the vehicles near the road and Mr. Savage said that the vehicles near the road are the ones for sale. Cynthia asked about how many customers he has in a typical week. Mr. Savage guessed he might have 10 customers in a good week and that he currently has about 20 cars on his lot. Cynthia asked Mr. Savage what he thought would make neighbors happy. Mr. Savage said he had made sure when he unloads his trailer it is done on his property, not on the road.

Zoning Administrator Alan Smith told the board that he didn't know if any prior approval would be required by the State of VT.

The hearing was adjourned at 6:14 p.m. on April 26, 2018.

During the same evening of April 26, 2018, the Concord Zoning Board of Adjustment met in a non-public deliberative session immediately following the hearing. The board entered deliberative session at 6:45 p.m. and exited deliberative session at 7:00 p.m. The board decided that a site visit to Mr. Savage's property was necessary to make the decision. The visit was scheduled for May 8, 2018, at approximately 5:00 p.m.

The board met at the Savage property on May 8, 2018 to view the property. The board re-entered deliberative session at 6:27 p.m. The board came out of deliberative session at 6:48 p.m. James Gochie made the motion to approve Shawn Savage's permit with conditions as written. John Christman seconded the motion. The motion passed unanimously (5-0).

FINDINGS

Based on the application, testimony, exhibits, and other evidence the Zoning Board of Adjustment makes the following findings:

1. The applicant seeks a conditional use permit to operate an auto repair and sales business. The property is a 2-acre parcel located at 2070 Oregon Road in the Town of East Concord (tax map parcel no. 00091. The property is more fully described in a Warranty Deed from Federal National Mortgage Association to Shawn Savage dated September 10, 2010 and recorded in Book 78 Pages 232 to 234 of the Concord Land Records.
2. The property is located in the Medium Density District as described on the Town of Concord Zoning Map on record at the Town of Concord municipal office and table 205.6 of the Zoning Bylaws.
3. Conditional use approval is requested to operate an auto repair and sales business as defined in section 207 of the Zoning Bylaws.
4. Section 207 of the Town of Concord Zoning Bylaws provides the following objective of a medium density area:

Conditionally approved uses are uses that require, following administrative review by the Zoning Administrator, referral to the Zoning Board of Adjustment for Conditional Use Review after public notice and hearing.

207.2 A change of use, expansion or contraction of land, area, or alteration of structures or uses which are designated as a conditional use within the district in which they are located and are existing therein, prior to the effective date of this regulation, shall conform to all regulations herein pertaining to conditional uses.

Oregon Road is an area where many homes are unkempt with excessive debris and/or shelters for animals scattered near properties. Mr. Savage's business does not detract from the neighborhood.

5. There was no identified negative impact on the surrounding area.

DECISION AND CONDITIONS

Based upon these findings, and subject to the conditions set forth below, the Zoning Board of Adjustment grants the conditional use permit to operate an auto repair and sales business by Shawn Savage on 2070 Oregon Road in East Concord.

Conditions for the conditional use permit:

1. Complete the fence installation along the left side of the property within 6 months (November 16, 2018) of this decision as specified in the fence permit application.
2. No junk or salvage, as defined by the town's junk ordinance, is allowed on the property.
3. Any cars being worked on must be kept behind the fence.
4. A limit of 6 sellable vehicles are allowed at one time in front of the fence.
5. Any future changes must be approved by the board.

Dated at Concord, Vermont, this 16th day of May 2018.

Cynthia Stuart, Chair

John Christman

James Gochie

Linda Hartwell

Judy Kurtz

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceedings(s) before the Concord Planning & Zoning 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.