

PLANNING BOARD
TOWN OF WESTHAMPTON
TOWN HALL
WESTHAMPTON, MASSACHUSETTS 01027

Decision of the Planning Board at April 21, 2015 meeting.

Owner's/Applicant's Name: Cotton Tree Service, Inc. and Dodge Maple Grove Farm, LLC
0 Northwest Road in Westhampton (Map 5, Lot 15)

It is hereby certified by the Planning Board of the Town of Westhampton, MA that the Planning Board duly noticed, advertised, and held a public hearing beginning on February 4, 2014 and ending on March 10, 2015 for property located at 0 Northwest Road in Westhampton (Map 5, Lot 15) ("Property") to consider the special permit application submitted by Cotton Tree Service, Inc. and Dodge Maple Grove Farm, LLC for zoning relief ("Special Permit Application"). The Board met on the following dates: February 4, 2014; March 4, 2014; April 15, 2014; May 6, 2014; June 17, 2014; July 8, 2014; August 12, 2014; September 9, 2014; October 14, 2014; November 18, 2014; December 9, 2014; January 20, 2015; February 17, 2015(no quorum); March 3, 2015(no meeting/snowstorm); and March 10, 2015 to consider the Special Permit Application and hear all relevant evidence related to such Special Permit Application. Following the consideration of all relevant evidence, including documentation submitted by all parties, the Planning Board voted to close the public hearing on March 10, 2015.

During the public hearings on February 4, 2014; March 4, 2014; April 15, 2014; May 6, 2014; June 17, 2014; July 8, 2014; August 12, 2014; September 9, 2014; October 14, 2014; November 18, 2014; December 9, 2014; January 20, 2015; February 17, 2015(no quorum); March 3, 2015(no meeting/snowstorm); and March 10, 2015 , the Planning Board heard extensive testimony and received documents from the applicant, David Cotton and his counsel, Attorney Patrick Melnik, as well as from abutters and other Town residents. The Planning Board also considered information submitted by the Town's Highway Superintendent David Blakesley, the Town's Fire Chief, the Town's Conservation Commission and the Town's Zoning Enforcement Officer Chuck Miller. The Planning Board also reviewed the Property's use, the historical use of the Property, and analyzed documentation and proposed conditions relative to the Special Permit Application.¹

In particular, some members of the Planning Board believed the proposed activity did not comply with the following sections of Westhampton's Zoning Bylaws: sections 1.2, 6.2, 6.27 (1 & 2), 6.31 and 6.351(g) amongst others.

¹ After the close of the public hearing on March 10, 2015, the Planning Board met on March 31, 2015, April 7, 2015 (no quorum), April 14, 2015 and April 21, 2015. The Planning Board voted on this decision on April 21, 2015.

Findings:

Based on the testimony and documentation considered by the Planning Board, as referenced above, and included in the Planning Board's minutes and file, which are incorporated herein by reference, the Board makes the following findings:

- 1.) Based on the evidence presented to the Board, including the testimony of abutters as well as the applicant, the proposed use of the Property is not an extension or alteration of a pre-existing non-conforming use. During the hearings, after inquiry from the Board, the applicant failed to demonstrate that there was an identifiable continuous and consistent use of the Property sufficient to exempt the proposed use of the Property from the applicable zoning requirements.
- 2.) The proposed use is commercial in nature and not an agricultural/farm use since it primarily involves the commercial enterprise of bringing wood from other locations to the Property for processing.
- 3.) The Right to Farm By-Law does not permit the use of the Property, as proposed, as a matter of right under the Town's Zoning By-laws.
- 4.) The National Heritage and Endangered Species Act does not apply at this time.
- 5.) Based upon input from the Westhampton Conservation Commission there were no issues at this time implicating conservation or environmental considerations.
- 6.) The site plan was adequate for the proposed project/use at this time.
- 7.) Hazardous waste was not a factor at this time.
- 8.) Proposed increase in traffic was not an issue at this time.
- 9.) Noise was not a substantial factor. Reduced hours and/or screening could reduce noise if properly implemented.
- 10.) The proposed use of the property did not present a fire hazard at this time.
- 11.) The commercial nature of the business to process wood, including the use of large trucks at the Property to deliver and pick up wood products processed at the Property and the actual processing of wood at the Property in a manner visible to abutters, was significant in scope.
- 12.) The proposed use was inconsistent with the neighborhood and, as such, not in harmony with the residential surroundings and could not be sufficiently mitigated by conditions of approval.

After hearing extensive testimony on the Special Permit Application and a consideration of all the requirements of the Town's Zoning Bylaws, on April 21, 2015, as referenced above, a motion was made to vote on the special permit as reflected in the meeting minutes, with two members of the Board voting in favor of approval with conditions and two members voting to deny the permit. As such, the vote to grant failed by a 2-2 vote of the Board.

Per section 6.23 of the Town's Zoning By-Laws, a vote of four members of the five-member Board is required to grant a special permit.

Planning Board members present:

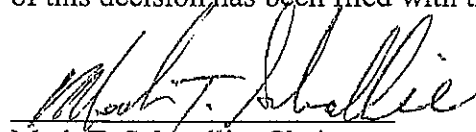
| | | |
|-------------------|----------|-------------------------------|
| Mark T. Schwallie | voted to | Grant w/ extensive conditions |
| Thomas Hathaway | voted to | Grant w/ extensive conditions |
| Robert Dragon | voted to | Deny based on the above. |
| Robert Turner | voted to | Deny based upon the above. |

Motion made by: Robert Turner to vote. Seconded by: Thomas Hathaway

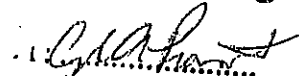
Vote Count: 2 votes to grant the special permit with conditions and 2 votes to deny the special permit.

DECISION: Following the Planning Board's vote, there were insufficient votes to grant the Special Permit. Therefore, the special permit application is not approved.

I, Mark T. Schwallie, as chair of the Planning Board, certify that this is a true and accurate decision made by the Planning Board on April 21, 2015 and certify that a copy of this decision has been filed with the Town Clerk this 28th day of May 2015.

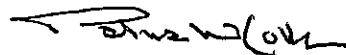

Mark T. Schwallie, Chair

REIVED
MAY 28 2015


Cynthia A. [unclear]
Asst. Town Clerk

This is to certify that this is a true copy of the decision of the Westhampton Planning Board filed in the office of the Town Clerk May 28, 2015

A True Copy Attest



Town Clerk, Westhampton