

## **BOARD OF SELECTMEN**

**NOVEMBER 26, 2013**

### **MEMORIAL BUILDING**

**7:00 P.M.**

This was a joint meeting scheduled for Planning Board and Zoning Board review of the Zoning Ordinance as it pertains to Home Occupations, Home Business and other.

Selectmen present: Chairman, Don Hill; Leigh Callaway, and George McCusker.

Others present: Mike and Susan Chiarella, Bryan O'Day, Cynthia Hayes, John Trachy, B. Manning, Darrin Patten, Tom Duling, Justin Hastings, Ryan Peterson, Donna Abair, Ken Jacques, Mike Howard, Kevin Lee and Bill Huntoon.

Don opened the meeting at 7:00 p.m. The purpose of this meeting is to enable the Selectmen, the Chairs of Planning and Zoning and other interested parties to be gathered in one place to discuss home occupation and home business compliance. Past attempts to launch this has been met with a mixture of feedback from legal counsel, UVLSRPC, and other towns. Over the past few years, there have been 3 attempts drafted that never were launched. There has been discussion and concern that if the ordinance is not being enforced than it should be gotten rid of.

The Selectmen have instituted a process with a question on the building permits asking if a property is being used for business purpose; that may trigger referral to Planning or Zoning.

Don read Sections 5.10 Home Occupation and 5.20 Home Business of the Zoning Ordinance. A Home Occupation that continues to meet the criteria is not subject to Site Plan Review (SPR) by the Planning Board. All other uses are subject to Site Plan Review. During the SPR process the Planning Board determines the criteria and if a use falls into commercial or industrial the applicant would be referred to the Zoning Board for Special Exception Approval. Once a Special Exception is granted, the applicant would then return to the Planning Board to complete the Site Plan process.

Don noted that has been a lot of discussion and opinion, made worse by rumors and speculation, about how best to proceed with documenting a baseline of existing uses so as to be able to move forward. Leigh stated that he wants to be absolutely certain that the process is fair for everyone and that no one is singled out. A conservative estimate is there are at least 100 businesses that fall into one of these categories. The Selectmen are handling new cases all ready but there is mixed opinion how to go backwards. Some people have voluntarily come forward, but many have not and may not aware of the requirement to do so. Don noted that a month ago, a letter was drafted to be mailed to the whole town. That letter met with some resistance and is another reason for tonight's meeting.

The following is an outline of discussion that took place:

- Allow an "amnesty window" for people to voluntarily come forward
- Currently the only way to know if there is an issue is if there is a complaint
- Neighbors don't want to stir up trouble and "complain" about their neighbors

- There could be legal challenges made if people feel they are being singled out or discriminated against in some way
- There could be challenges made by those who have all ready been made to or voluntarily complied with the regulations
- Terms of “grandfathering” need to be defined, a lot of people believe they are “grandfathered”
- Baseline information needs to be documented about what is happening now to be aware of future requirements.
- People don’t know what is required of them. The intent is not to “go after” anyone
- The goal is to work with the public to provide education and positive feedback of requirements
- Very few cases have come before the town; there are no known cases where a Selectboard has “gone after” someone

Suggestions made:

- Send generic letter to everyone for educational purposes since people don’t know what may be required, or there may be agricultural uses that fall within the criteria
- If letter goes to everyone, no one is being singled out
- Include questionnaire with letter; either a self-directed questionnaire or one that needs to be returned.
- Include an annual questionnaire when mailing Annual Request for Inventory form
- Look at building permits, inventory forms, and assessing records to see if something has been done, changes made, or change in ownership since 2006. Noted home business regulations have been in existence since 1987 when Zoning was adopted, but the definitions changed for clarification purposes in 2006
- Is there a plan in place for further education beyond sending a letter
- What is the plan for enforcement if people don’t come forward

Discussion of ways to encourage compliance:

- Offer financial incentive by waiving application fees if people come forward
- Financial incentive may not bode well for others who have come forward and paid the fees
- Is waiving fees even something the Selectmen can authorize
- Ask Planning Board to recommend elimination of the Ordinance;
- Ask someone else to enforce so Town is not seen as singling anyone out
- Rely on neighbors; “bad blood” between neighbors could become an issue
- Ask police to go out as a first to see who may have a sign; could be seen as discriminatory; may not be within the purview of PD
- Review application fee structure and or review certified mailing requirements as a possible area to reduce expenses to applicants
- Schedule joint hearings for Planning and Zoning Hearings as a possible area to reduce expenses to applicants.

- Downside of joint hearings - hearings may get rushed; not in the best interest of the applicant. Owe it to the applicant to take a careful look at their property.
- Possibility of applicant giving authorization for board members to view property when an application is filed, prior to any hearing(s)
- Speak to other towns who have gone through this process for suggestions and recommendations

A decision was reached that Don would take another stab at drafting an informational letter including self-directed questions. He will share the letter with the other Selectmen, and the Planning and Zoning Chair for review and approval before it is mailed.

Leigh stated he is concerned that once these letters go out, the “switchboard” at the town office is going to “light up” and this is a very busy time with the taxes due, budget planning, town report, and town meeting prep. Timing of the letters needs to be taken into account.

George stated that he hears comments quite often that the boards are filled with people who are not in compliance and felt strongly board members should be made to be compliant first.

Donna Abair questioned what specifically is required from her from an agricultural standpoint. She sells pork and eggs from her property, the number of customers that come to the farm varies. She was told she is exempt from a Special Exception because agriculture is a permitted use, but she would need a Site Plan Review.

Suggestion was made to delay sending the letter until just before town meeting. Town Meeting might be a time for further discussion and education.

Kevin Lee stated he would encourage board members to use the intervening time to come for Site Plan Review and Special Exception, if necessary, to get “our own house in order” before the letters go out.

The meeting adjourned at 8:15 p.m.

Submitted by,

Janet Roberts