

January 17, 1990

Members present: Richard Smith, Chairman; William DiProfio, Selectman; Kathy George, Robert Marston and Mervin Keddy

Others: Larry Smith, Conservation Comm. and Sarah Campbell, Rockingham Planning Commission

Mr. Smith called the meeting to order at 7:45pm.

HOME OCCUPATION-SUSAN WIXON The Public Hearing for Susan Wixon was opened at 7:45pm.

Mrs. Wixon stated that she will be offering a service of foil imprinting of business cards, wedding invitations, etc. She will not be imprinting any glass or metal items. A small piece of machinery, housed in her basement will be used. She will be soliciting orders outside her home and bringing the orders back to her home for processing. The only waste that will be generated will be the "saran wrap" backing after the imprinting process leaves the "foil" on the paper product. It is anticipated there will be very little amounts of this waste product generated.

Mr. Keddy inquired if there were any solutions used or if the process was by heat transfer.

Mr. Wixon answered that it was done through heat transfer.

Mr. Keddy asked what would be used to clean the machine.

Mr. Wixon answered a dry cloth would be required for dusting purposes only.

Mr. Keddy asked if there would be colors, or black and white.

Mrs. Wixon answered there would be multi colors and there would be no mixing required as this is all done with the foils.

At this time Mr. Wixon showed the Board a picture of the machinery.

Mr. DiProfio suggested to the Board that this would be similar to an Art/Craft hobby or Antique Shop as allowed as Home Occupations in responding to Article 10.3.

Mr. DiProfio asked if there were abutters present. There were none.

Mr. DiProfio motioned the Planning Board recommend to the Board of Selectmen to approve Mrs. Wixon's Home Occupation Application.

Dr. Marston inquired if the fee had been paid by Mrs. Wixon.

After hearing that it was paid before this Public Hearing could be held, Dr. Marston expressed his dismay that the Town would charge \$50.00 to conduct such a business in a private home.

Mr. Keddy second.

The motion passed 5-0.

SUBDIVISION CHECKLIST The Subdivision Checklist submitted last month for review was amended by additional items by Sarah Campbell. After consideration by the Board, it was decided that this would be an advantageous guide when reviewing future Subdivisions.

FLOODPLAIN ORDINANCE-PUBLIC HEARING The Public Hearing for the Floodplain Ordinance Amendment, Article XIII (added) proposal was opened at 8:00pm.

Mr. DiProfio updated what is currently in place and the explained the changes are required by the Federal Government for floodplain insurance to continue for those who have to have this type of insurance. This plan must be adopted by the Town in order for these property owners to obtain this type of insurance.

Mr. DiProfio further explained that to collect for any reason, the Town must have the ordinance and it is placed at no cost to the Town.

Ms. Campbell stated that the Model Ordinance adopted in 1986(87?) has been updated.

Mr. Keddy motioned to recommend it's approval as printed and to place the article before the Town as a ballot item at the Town Meeting.

Mr. DiProfio second.

The motion passed 4-1. (Dr. Marston dissenting).

The Public Hearing on the Floodplain Protection Ordinance closed at 8:08pm.

DAYCARE-PUBLIC HEARING The Public Hearing for the Home Occupations Ordinance Article X, paragraph 10.3 & related paragraphs - Child Care amendments was opened at 8:10pm.

Ms. Campbell detailed the proposed changes from the previous Home Occupation Ordinance and the reasons for suggesting these changes.

Mr. DiProfio asked if persons intending to provide Child Care for six preschool and three school age children would be exempt from the permitting process.

Ms. Campbell stated they would not be required to pay the Home Occupation fee, however, they would still be required to obtain a Home Occupation permit.

Ms. Campbell stated that this was an attempt to bring the Town's Ordinance into coordination with the State Day Care regulations.

Mr. Keddy stated assuming a home has the maximum allowed by State regulation for Day Care/Foster Care, he has concerns with septic systems being adequate to handle the capacity.

Ms. Campbell stated the Town has no restriction on Foster Care, therefore, this would not be a concern.

Mr. Smith stated that if there were too many persons living in a house, and there was a septic problem, they would have to take care of it.

Mr. Smith called the question for a vote.

Mr. DiProfio motioned to recommend the changes to the Home Occupation Ordinance as posted for the Town Meeting ballot.

Ms. George second.

The motion passed 5-0.

The Public Hearing on Home Occupations was closed at 8:18pm.

EXETER & POWWOW RIVER WATERSHED PROTECTION DISTRICT-PUBLIC HEARING The Public Hearing for the Exeter & Powwow River Watershed Protection District was opened at 8:30pm.

Larry Smith, Conservation Commission Chairman presented the history of the Watershed Protection District and displayed detailed maps of the areas affected by this Protection District.

Mr. Larry Smith stated that Exeter has concerns about their water supply. There are 17 towns and 129 sq. miles within this watershed. He stated this is a chance to have East Kingston's input regarding this watershed. 1988 was the first version of this Protection District given for consideration. Last year's model was tabled in East Kingston. Exeter and Kingston passed during 1989 and Brentwood did not pass in 1989. Further, the State has allowed a specific town two years to write a plan or they intend to do it for those town's within the buffer strips. He detailed the major changes from last year's proposed district.

Question: If an existing house burns in this strip (buffer strip), can it be rebuilt?

Answer: See 10.a Non-conforming uses. Yes, it most likely would be allowed to be rebuilt.

There was concern expressed about the dumping of snow by the state (page 3 (f)), that would be contrary to this paragraph restricting it.

Mr. Bioteau asked the Board to let this go this year and see what the State comes up with. He stated that this would be affecting himself and Mr. Joseph Conti. He is concerned with the 125 ft. buffer zone at the river's edge using up too much of the available land for building.

Mr. Smith stated there was no option left by the State on the width of the buffer.

Mr. Bioteau asked that we let the State put it up, and we will abide by their rules versus East Kingston writing their own.

There was an argument that the state would give two years to write our own law.

Statements were made that the EPA will be involved with this eventually.

Mr. DiProfio stated that the driving force is the protection of the river and the quality of the water.

Dr. Marston stated he realized that this was being presented for the protection of the Amesbury and Exeter water supply and that he would be happy to hear the facts from these towns. He asked that representatives of these towns come forward and tell us what they think about it.

Mr. Smith inquired if any representatives from these towns were present. There was no response and it was determined that no one was present.

Dr. Marston questioned why no one was here to speak to their protection.

Mr. Bioteau stated he is concerned with owning lots on the river. He stated it would be common to add extra for water frontage taxes.

It was suggested that the topography level could be added as it would be a factor. If the contour of the surrounding water frontage would support it perhaps it could be exempt from the 125 ft. buffer zone.

Mr. Larry Smith stated that he is not happy with contouring.

There were comments about the Town of Amesbury owning the property adjacent to their water supply and continuing to pasture cows there. It was also noted that Bodwell's on Stumpfield Road near Exeter's supply is a similar problem.

Mr. Larry Smith stated that this would be considered an existing use.

Further comments were that Amesbury has allowed building along Whitehall Road which would impact water supply/quality. It was allowed that the impact would be on few people in East Kingston and that money, politics, and the increased value of land outweighs common sense.

Mr. Richard Smith asked for Board members comments and questions.

Mr. Keddy stated he agrees with Dr. Marston that if Exeter is keen about the protection of it's water supply, they should have a representative here to speak to us about it.

Mrs. Jacques stated that she was in Washington and wished to speak to the quality of water for drinking. She stated she feels that this is one of the top concerns of society and it is everyone's job. It is the future for all and the Town should be concerned, she feels this is the step in the right direction and the Town should be looking very carefully at this protection.

Dr. Marston believes that everyone is doing his part and he doesn't like to have persons appropriating his land without compensation to protect their supply.

Dr. Marston motioned to turn this proposal down.

Mr. Keddy second.

The motion passed 5-0.

The Public Hearing for the Exeter & Powwow River Watershed Protection District was closed at 9:03pm.

F. PAUL JACKSON The Public Hearing for Site Plan Review for F. Paul Jackson and The 10 North Road Trust was opened at 9:06pm.

Mr. Smith recognized Mr. Jackson to speak to this issue.

Mr. Jackson stated he purchased the property in March 1988, at 10 North Road, which was formerly known as "Frost's Garage". He planned to do computer manufacturing there, however, when the funding fell through, he had to reconsider. He decided to revert to what the building was best suited to, being a garage.

Mr. Jackson stated that in 1981 the Frost Garage sign was removed. There are five 12 x 16 ft. overhead doors, a 20 ton truck lift and one auto lift still inside the building.

Mr. Jackson stated that all attempts to rent and sell have failed.

Mr. Jackson stated he bought six or seven Mercedes and had begun the renewal of the northerly driveway when Joseph Conti, Building Inspector stopped by and explained that he could not continue without a Site Plan Review.

Mr. Jackson expanded in detail his intent for business. He intends to service diesels; restoration and peripherals as relating to gasoline or diesel. There will be no changes to the interior except that the spray booth is moved to the left to take advantage of the natural light. Because of the location of the explosion proof fan system, he may decide to bring it back to the original site. He stated improvements have been done and there are more to come and he is facing a severe hardship to get the building paying for itself. The structure itself, without additions, precludes what it can be used for. It is suitable for an auto machine shop and wiring shop.

Mr. Jackson stated this will not be a junk yard. He stated he also lives within the premises and is aware of the neighboring properties. He stated he has talked with Mr. Monahan, Mr. Corbett and Mr. DesChamps and they have no objections. Mr. Jackson further stated that he will have a maximum of twelve cars parked in front of the building.

Mr. Jackson stated that he currently has a 275 gal. tank for the waste oil storage. He will install a burner by next fall that will burn this waste oil.

Mr. DiProfio asked about the replacement of the old driveway.

Mr. Jackson stated that he has taken the clay out and it is currently down to the gravel.

Mr. Jackson said that he wants a 10 x 2 ft. sign on the building. Since the building is 40 ft. long he does not feel this is obnoxious in size.

A question of where it would hang was asked.

Mr. Jackson inquired if anyone present knew first hand about the building since 1976.

Mr. DiProfio stated that the site was granted a change of use variance to computer and furniture restoration as required under current ordinance at that time.

Mr. Jacques addressed the Board at this time stating that he built his house (across the street) in 1976. He said that at this time he requested to place a trailer on his site to watch the lumber prior to his home being built. This request was denied and he said that he lived with Mr. Corbett while his home was being built.

Mr. Jacques was disturbed that Mr. Jackson began this business some two-three months ago with no permits and he resented being inconvenienced at the time of his building his home.

Mr. Jacques said that the lady with stoves, previously owning 10 North Road, was told by the Board of Adjustment to add shrubs and close up the overhead doors.

Mr. Jacques stated his taxes are over \$5000 and he feels he stands to lose the value of his property with the use of this garage. He stated that this is not a commercial area.

Mr. DiProfio stated that this was a commercial lot before there was zoning in this town.

Mr. Jacques stated that he was told that Denny (DesChamps-abutter to Mr. Jacques property) could only have two cars parked in his yard.

Mr. DiProfio stated that it is commercial (Mr. Jackson's property).

Mrs. Jacques said that she was told the house that exists over the garage was once on the ground separate from the garage and that it was lifted and placed on top of the garage.

Ms. George stated that this lot has been commercial for over 25 years.

Mr. Jacques stated that the owner of Carmen's told him that he cannot sell and have the commercial business intact.

Mr. Jackson stated that he wants to be a good neighbor and work with the Jacques. He also noted that the garage was in existence before the Jacques built their house.

Mrs. Jacques stated that her opinion was that this is a non-conforming use, unless a variance is allowed, and it is not allowed. She is concerned with used cars being parked on the septic system.

Mrs. Jacques is also concerned with the waste oil burning emitting dangerous chemicals into the atmosphere. She asked how Mr. Jackson intends to get rid of other chemicals he may use.

Mr. Jackson stated that burning of waste oil is a common practice in garages today.

Mr. Jacques asked if there was a drain in front of Mr. Jackson's septic system.

Mr. Jackson explained the design and operation of the septic system.

Mr. Jacques had concerns about the drain's operation if there were chemicals emitted through the water supply.

Mr. & Mrs. Jacques stated they were appalled to come and find there was no jurisdiction to make Mr. Jackson conform to the regulations. They saw no control to keep the site as it was over the past several years. They feel that once a non-conforming use ceases, it is not allowed to resume. They noted the grassed area now open as a driveway, they felt it would be non-conforming after 12 months. They see no protection for expensive property when anyone can bring back what existed.

Mr. Jackson noted that the Jacques had objected to the manufacture of computers also. He stated that his Purchase and Sales Agreement was for a commercial use.

Dr. Marston stated there had always been a garage there.

Mr. & Mrs. Jacques contend that it was converted and was never to go back to the garage at the time of building their home. They asked if there were any restrictions placed on Denny's.

Mr. DiProfio stated not by the Planning Board, the Board of Adjustment did.

Mr. DiProfio stated it was for the change of use from furniture refinishing to computers.

Mr. Smith stated that the building was there at the time Mr. & Mrs. Jacques bought their property.

Mr. & Mrs. Jacques stated they would not have bought it if it had been a garage.

Mr. Jackson noted that the sign was removed in 1981.

Mr. & Mrs. Jacques feel that diesels are noisy and that they can be heard for great distances and they feel this is unfair to them.

Mr. Jackson stated that he operated the business for three months and he shut down his commercial operation when he found out he had to come to the Planning Board.

Mr. DiProfio stated Mr. Jackson has to comply with the sign ordinance. A sign 10 x 2 ft. does not comply. Mr. Jackson was advised to see Article IV (f) of the Zoning Ordinance.

Mr. Jackson stated that he will comply with the Zoning Ordinance.

Mrs. Jacques asked if there was a minimum of sq. ft. for each vehicle to be parked.

Mr. DiProfio stated no, this property is considered by the town to be commercial, grandfathered by ordinance when adopted. It (Ordinance) deals only with the change of use and needs a Site Plan Review, which Mr. Jackson is now doing.

Mr. DiProfio asked Mr. & Mrs. Jacques to state any restrictions that they would like to see imposed.

Mr. Jacques stated to have it the same as when he bought his property. It was not a garage.

The pavement in front was not a requirement from the Board of Adjustment, merely a request.

Mr. DiProfio stated this is merely a different kind of commercial use.

Mr. DiProfio asked what the maximum number of cars outside would be.

Mr. Jackson stated twelve.

Mr. Jacques requested everything be inside, same as last ten years.

Mr. DiProfio stated there never was a restriction of this type.

Mrs. Jacques asked what the buffer zone is on commercial.

Mr. DiProfio again stated it is grandfathered, there is no buffer zone concerns about the contaminants. He noted the same concerns were expressed with Denny's.



Mr. Smith noted that variance goes with the land.

Ms. George asked if there were plans to disturb the currently existing plantings.

Mr. Jackson answered no. He also stated he was willing to place more shrubs on the North side.

When asked for distance, Mr. Jackson said that there was 48 ft. to the line on the North side.

Mrs. Jacques asked about chemicals. She requested no burning of oils, etc. there. She would like to see holding tanks if necessary.

Mr. Jackson stated he has no intention of polluting, and stated that he lives there also and would be polluting his own water and air supplies.

Mr. DiProfio said the conditions he was interested in were no more than 12 vehicles and signs to be according to the Ordinance.

Mr. & Mrs. Jacques were again concerned with the noise level.

Mr. Jackson stated the diesels were automotive not turbine.

Ms. George asked what the hours of operation of machinery would be.

Mr. Jackson stated he will be conscientious about noise levels.

Mr. Smith asked for Fire Chief David Conti's input.

Mr. Conti stated he would be concerned with fire concerns: solvents, greases, storage of combustible materials, etc. He also wanted to know if the former gas tanks were still underground there.

Mr. Jackson stated they were probably filled with cement or sand if there were still there.

The Conservation Commission has done a research on all known old tanks in town and found no records of them existing.

Mr. Conti stated that if found, filling with sand would suffice.

The Fire Dept. will review the plans and stipulate fire protection devices needed.

Mr. Jackson stated that some fire equipment is in place from the previous use and asked if this was okay.

Mr. Conti stated that he will go to the site and re-check.

Mr. Jackson asked permission to erect five signs.

Mrs. Jacques objected to so many signs.

Mr. Jackson stated he will re-think to two signs and will work with Mrs. Jacques to make it least objectionable.

Mr. Keddy stated the commercial district is limited to two signs maximum, each containing 4 sq. ft.

Mr. Jacques asked what plans have been made for used parts..will they pile up.

Mr. Jackson stated there will be none piled up. They will be disposed of promptly and correctly.

Mr. Smith stated that the Selectmen enforce all Zoning Ordinances.

Mr. & Mrs. Jacques re-stated their concerns with noise.

Mr. DiProfio motioned to approve the Site Plan for F. Paul Jackson and The 10 North Road Trust as presented with the conditions as shown:

1. Exterior parking limited to 12 vehicles.
2. Two exterior signs maximum, in accordance with ordinance.
3. Fire Chief inspection and compliance with his recommendations.
4. Buried gasoline storage tanks to be filled with sand (if existing).
5. No machinery operation, with doors open before 8am or after 6pm, six days per week-Monday through Saturday. Doors to remain closed on Sundays.

Mr. Keddy second.

The motion passed 5-0.

The Public Hearing for F. Paul Jackson & The 10 North Road Trust was closed at 10:23pm.

MINUTES-December 20, 1989 Ms. George motioned to accept the minutes as printed for December 20, 1989 as posted.

Mr. Keddy second.

The motion passed 5-0.

MISCELLANEOUS

The Home Occupation Ordinance changes were sent to Kathy Barker for posting and inclusion in the Town Warrant/Ballot.

Ms. Campbell stated she has sent the posting for Floodplain Development Ordinance to the Town Clerk.

The Notice of Decision will be sent by Ms. Marden for Home Occupation and Site Plan Review.

The meeting was adjourned at 10:30pm.

Respectfully submitted.

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Nancy J. Marden, Secretary/Clerk