

BB File

June 16, 1994

East Kingston Planning Board

Attending: Chairman Richard Smith; Catherine George, Amanda Rossi-Lashoones, and Andrew Berridge, Alternate

Others Attending: Joseph Conti, Building Inspector; Larry Smith, Conservation Commission Chairman; Peter Dow and Sarah Campbell, RPC Circuit Riders

This meeting opened at: 7:45pm.

Minutes Mrs. George motioned to accept the minutes as corrected by Mr. Larry Smith. Corrections were on pages 1 and 2 - "Z-Bar" should read "Re-bar".

Mr. Berridge second.

The motion passed 4-0.

Correspondence

Grant Funds-No money in this years budget, therefore no grants will be written. Mr. Dow expects the grants will be offered again next year. Money would have to be requested in next year's warrant. This would be a 50/50 match.

Mr. Larry Smith stated he would like to see the Water Protection Plan completed.

June 20th - bicyclist program

Regional Transportation needs/Seacoast Metro Planning Organization

Barbara Bagshaw The plans for Mrs. Bagshaw could not be signed due to lack of State SD approval. No one was present at this meeting. The concrete markers are now shown on the plan.

Mrs. Campbell asked when the 90 day clock was up. It was noted the plan was submitted last month.

Mr. Berridge motioned to table the signatures until next month.

Mrs. George second.

The motion passed 4-0.

Public Hearing Continuation-Thomas Brandolini This continuation opened at 8:00pm.

This public hearing continuation for a home occupation for a garage/automobile repair business was lengthy and abutters were present to state their views. Comments from these abutters and responses from the applicant are condensed and presented as follows (hopefully to clarify concerns and rebuttal):

Abutter Concerns/Bd Comments & Questions
Mr. Smith - any changes?
Mr. Wayne Couture - I live directly across the street and was not here at the last meeting.
Mrs. George - I have been to Mr. Brandolini's and reviewed the BOCA Code.

Typed: 6/19/94

Mr. Joseph Conti - I called Mr. Brandolini a couple of weeks ago. He has begun sheetrocking the garage and putting on new siding. I issued no permit for the sheetrock, but he has an appointment to get the permit to do the necessary work. There was a problem with the frame and he wants to sheetrock and insulate. I have informed him that no work is necessary unless he is issued a Home Occupation permit or if he wants to enhance for resale purposes. I will go to the site and decide the size of the garage and will give a permit for the sheetrocking. The Home Occupation Permit issue is up to the Planning Board & Selectmen. According to the Town Ordinance, Mr. Brandolini cannot diminish the values of the properties surrounding him. There shall be no mess anywhere on his property. This is what the zoning states, and it is up to the Selectmen to tell what they want.
Mr. Brandolini-I am not unhappy with Mr. Conti's findings. I have had carpenters in for the past three weeks to bring it up to the BOCA codes.
Mr. Conti- Reading from the Home Occupation Ordinance - clearly states the use must be accessory and subordinate to the residential use of the property.
Mr. Brandolini - I have no problem with that and I will not have a sign.
Mr. Beridge - The Planning Board asked the neighbors to get together, is there a common statement?
Mr. Couture - I was not aware of a neighborhood meeting.
Mrs. Castonguay - We didn't invite you as you were not here for the initial hearing meeting. It was not our business to notify anyone who was not present at that meeting. At this time, a copy of a letter signed by two abutters was read and a copy was given for the Planning Board records.
Mr. Couture- I have been there for six years and do not have a major issue. All of the neighbors have had their cars repaired by Tom, there is no nuisance; traffic is not a safety issue as all the traffic is not attributable to Tom. There are family gatherings which generate this much traffic. There are other businesses operating out of their homes as well.
Mr. Brandolini - According to the codes, there is to be no external evidence. I will keep the residential caricature. I am working hard to that end. I will have no signs, no exterior appearance of business. I will be moving my personal vehicles to make ample off street parking. Smoke, fumes, and dust are not happening.
After some verbal objections to this last statement - Where are they coming from?
Mrs. George- It is up to the Planning Board to decide to recommend or not. The Selectmen get the issue after the Planning Board makes a recommendation to grant or deny; it is up to the Planning Board actually.
Mr. Brandolini-As for the exterior evidence; you can see absolutely nothing. Even Cheryl (Durkee) said she only knew of the business last year.
Mrs. Durkee - That was only because I was at home during the day last year (not before).
Mr. Durkee-Last week a van was up on blocks all week long. This is a safety factor and was not chucked properly. That van was open to any number of possibilities of rolling or falling off those blocks. How safe are the vehicles parked in the driveway, sometimes they are overwhelming. (Requested to speak to the past 18 months-was denied and asked to stick to issues at hand now) I have no problem with Mr. Brandolini as a neighbor, only with the business.
Mrs. George - I went down and saw it. I would not say it was a business if I were driving by.
Mr. Berridge - Are there any abutters here tonight?
Mrs. Durkee - We are all neighbors here tonight. Mrs. Haley, who is not here lives on the other side of Mr. Brandolini.
Mr. Dow - You are claiming that you operated a business before 1989?
Mr. Brandolini - Since 1991 on Rowell Cove Rd.
Mr. Dow referred to the list on pg. 16 of the Ordinances. He noted the list of permitted Home Occupations and there is no reference to auto repair. He stated there is some flexibility. Are you contending this business is the same as those listed?
Mr. Brandolini - I understand other Home Occupation Permits have been granted for auto repair.
Mr. Smith - Most were prior to the 1989 Ordinance adoption.
Mr. Dow - Most were grandfathered; are there any as new? The correct timing for application would have been before you began an operation. Explained how the ordinance is determined.

Mr. Brandolini - I admit a car was jacked up quite a while this week. I was forced outside by the renovations; the garage is being worked on. It was on 5000 lb. safety stands. It couldn't possibly move. The danger is in "your (Mr. Durkee)" imagination.
Mrs. Durkee - I am curious about the Planning Board's comments on three violations which I noted on the list.
Mr. Conti - I tried to tell Tom there would be only 2 cars allowed in the garage, not exhibited on the property exterior. If brought to code, having a 20# extinguisher, etc.; it would give him a chance to make a living. Mr. Brandolini did not want to live with this.
Mr. Brandolini - That is not true. I would move the outside vehicles (my own). Why are cars parked on the outside evidence of a business?
Mrs. Rossi-Lashoones - I have been by many times and there is not outward appearance of garage activity.
Mrs. Durkee - Asked for interpretation of "outside evidence of business".
Mrs. Rossi-Lashoones - No one wants a garage in their backyard.
Mr. Couture - I bought in this neighborhood six years ago and was well aware of the things that were going on there.
Items began to be listed for consideration: 1. Storage of flammable materials
Mr. Brandolini - I generate a small amount of waste oil and only about the same amount of gas that a normal household might have.
2. Disposal of fluids
Mr. Brandolini - I bring my oil to Haverhill to be burned in a waste oil furnace.
Mr. Durkee - I think he needs a legitimate ledger to account for the disposal.
Mr. Dow - Small waste generation requires a licensed waste hauler to remove.
Mr. Brandolini - I have registered with EPA in Haverhill. Small amounts of antifreeze goes to the Household Hazardous Waste Day collection.
3. - Just discussed                      4. Just discussed
5. Mrs. Leville - I want my hedges to grow and fill out. I do not want mess to look at. I want the codes to be met. I do not want a commercial looking area.
Mrs. Rossi-Lashoones - What about noise?
Mrs. Durkee - There can be at times.
Mrs. Leville - I feel it is normal noises; I want no night-time noises.
Mr. Brandolini stated he has no welder; no generator, but does have an air compressor.
Mr. Conti - Noise cannot exceed the property line.
Mrs. Castonguay - Regarding 10.2.8 - there is rivet gun noises, some dust, the street is sandy. Testing of vehicles up and down the road create odors, fumes. Fumes come from the vehicles which come to be repaired; extra trash from the refuse of the repairs.
10. Felt Mr. Conti already addressed. No. 9 was not spoken to.
Mr. Richard Smith feels it is a question if this is a Home Occupation. Is there a problem with keeping the cars in the garage all the time.
Mr. Dow - I wonder if the business will increase in time. Are you willing to be putting money in to meet the BOCA Code. Is it prudent to continue to invest if there are constrictions down the road. Does it make sense to continue with the endeavor at this time?
Mr. Brandolini - I have no intent to enlarge the business. I am not in this full-time. I made \$18000 last year. I try to live simply. My real interest is in the theater. I have been a mechanic for 18 year. The size of the business is relative to what one man can do alone. There is a limit to the amount of work that I can do.
Mrs. Eaton - Does the granting of the business mean if Mr. Brandolini moves out, the next occupant can run an auto repair business at the location?
Mrs. George - The permit renews every year. If he is not meeting the requirement it will not be renewed. The operation of the business was never brought to any officials attention.
Mr. Durkee - Who does the inspections for the Home Businesses in East Kingston?
Mr. Smith - Mr. Conti does; he makes sure they are in compliance.
Mr. Durkee - What about the Fire Dept.?
Mr. Conti - Once the permit is issued, BOCA Codes must be complied with.

Mr. Brandolini - Requested to address the concerns of Mrs. Castonguay. Dust: all cars make dust.
Mrs. Castonguay - I am asking the Board to act to the Town laws. I have the concerns listed as an abutter. 10.2.2/10.2.8/off street parking (he has done everyday), keep within the driveway. 10.2.3 use of a certain percentage of the dwelling. Has this been calculated yet?
Mr. Brandolini did not know the dimensions, but guessed the house was 24 x 32 with a 20 x 20 garage.
Mr. Conti - He may be borderline.
Mr. Smith asked the Board to come to a decision as the hour was getting late.
Mrs. George - There are other garages in homes, prior to 1989.
Mr. Berridge - These are on larger pieces of property.
Mrs. George - I have no problem with the criteria, but, auto repair is not listed. I looked at the property and there is no evidence of a garage. I assume the floor area criteria should be close.
Mr. Dow - The intent is to bring a recommendation to the Selectmen to grant or not.
Mrs. George - Motion to recommend to the Selectmen - the Planning Board finds that all criteria has been met. BOCA Code (must be) (has been) met and the Selectmen make the decision that auto repair is an allowable use under the Home Occupation Ordinance at 17 Rowell Road [NOT USED]
There was much discussion and rewording the above motion - ultimately it died for lack of second.
The Planing Board finds that all criteria has been met. If the Selectmen make the decision that auto repair is an allowable use under the Home Occupation Ordinance at 17 Rowell Road, then the BOCA Codes must be met.
There was much discussion about the above motion - ultimately it died for lack of second.
Mrs. Durkee - Requested the panel to vote on 10.2.8 individually. How do you arrive at this conclusion. There is a difference between living there and riding by.
Mr. Conti - It is up to the Selectmen to put restrictions and conditions on the permit.
Mr. Berridge - I feel 10.2.1 and 10.2.6 have been met. 10.2.2 parking and hours of operation are not addressed here.
There was much discussion at this point - rehashing what has been written before.
Mr. Brandolini - I bought this property with my brother in 1986. The property was extremely distressed. I fixed it up, I helped and benefited your property values. I am asking you to look at the big picture.
Mrs. Rossi-Lashoones - We are saying he meets the criteria and yet, we are not really sure he does.
Mr. Smith - If approved, we need strict conditions to comply with all the items.
Mr. Beridge - Motion to recommend that this application not be approved.
Mrs. Rossi-Lashoones - I want to approve with certain conditions. I feel the abutters can have input, they have to live there.
Mrs. Durkee - I have called numerous State agencies to find out criteria for auto repair shops.
The motion died for lack of a second.
Mrs. George - Is this the only means of support?
The general consensus was that this is irrelevant to the issue.
Mrs. Rossi-Lashoones - I feel this is a legitimate home occupation, but needs conditions.
Hours came up for discussion.
Questions on the percentage that could be used for the occupation.
Mrs. Rossi-Lashoones - There is adequate off street parking.

<b>Mrs. Rossi-Lashoones - Motion to approve with the following conditions:</b>
<b>No on street parking</b>
<b>No driveway expansion</b>
<b>No more than two (2) cars parked outside the buildings which belong to customers</b>
<b>No testing of vehicles on Rowell Road</b>
<b>Hours of Operation: 8:30am to 6pm -Monday to Friday; 8am to 12 noon - Saturday No Sundays - No legal Holidays</b>
<b>No parts left in open view</b>
<b>Proper disposal of oil, fuel and fluids</b>
<b>Fire Chief to inspect the property twice annually</b>
<b>No exterior lighting other than residential</b>
<b>Landscape screening on side property lot lines to insulate from noise/view.</b>
Mr. Brandolini asked to discuss the hours of operation. He stated he does paperwork usually from 8am to 10am. He has to go for his parts and sometimes it could be mid afternoon before he can begin a job. He requests to extend the evening hours. The Board was not receptive to this.
Mr. Berridge - Motion to continue this meeting for input from the Selectmen
This motion did not get a second.
Mrs. Castonguay - I have a concern with the hours. The school bus arrive s at 8am. It is hazardous driving in the winter on Rowell Road.
Mrs. Eaton - I have concerns about the close proximity of these homes.
Mrs. George seconded the motion and conditions as noted above.
The motion was voted upon. Two - Yes Two-No
The Board will submit the recommendation with the vote tied.
The hearing was adjourned at 10:15pm.

Michael Logan- Informal Discussion Mr. Logan stated he wants to buy adjacent property to what he owns on Rowell Cove Rd. He proposes buying the adjacent lot, combining it with one of two lots that he owns and selling the lot and house on the third lot. He stated this will make a more conforming lot. His currently owned lots are separated by a private ROW which serves six lots for water access and access to four lots which are back from Rowell Cove Road.

Shafmaster-Bob Keating Mr. Keating, Manager; and Mr. Dana Dowling, General Contractor for Mr. Shafmaster were present. Mr. Keating explained to the Board that Mr. Jonathan Shafmaster has purchased the Lazor residence at 60 Main St. They are requesting to convert the former dwelling of John Lazor to two bedrooms and a bath for guest purposes. There will be no kitchen and will conform to the BOCA codes.

Mrs. George asked why two bedrooms.

Mr. Keating explained that in the renovation of the original house, they will be removing two bedrooms and they seek to replace them within this building.

Mr. Conti noted that according to the zoning ordinances this building must be hard-wired with a smoke alarm and be connect to the house alarm system. If the Shafmaster plan is accomplished more than 50% of the house will be demolished and this would require compliance with the BOCA Codes.

Mr. Berridge asked what the current use of this building is now.

Mr. Keating stated it houses Mr. John Lazor, the Lazor's son.

Mr. Keating noted this would be an accessory use, two bedrooms and a bath and would not be rented.

Mr. Conti stated this configuration is not a dwelling according to the definition of the Zoning Ordinance.

Mrs. Rossi-Lashoones said she doesn't see any problem as long as there is no kitchen.

It was determined that the systems are already plumbing into the existing septic system.

Discussion-Dan Bodwell's request Mr. Bodwell has requested the Board to arrange a Public Meeting in which there would participate, himself, Mary Carrier, Rockingham Conservation and perhaps some persons from the State regarding the Wetlands Construction project.

Mr. Smith stated he felt nothing should be done as long as Mr. Bodwell does not have a permit.

Mr. Dow noted that there is still a problem in that Mr. Bodwell feels that he is grandfathered and the Selectmen do not. He noted the Selectmen have been asked to get the situation before Town Counsel for clarification, but they have not responded to date.

The discussion concluded that a Public Forum would not be productive for them to conduct without the permit.

It was suggested that Mr. Bodwell would be free to rent the Town Hall and hold an information meeting.

Public Meeting on Issuance of Building Permit per Zoning Ordinance Mr. Dow will work with Sarah Campbell to set up a Public Hearing in compliance with Article III-A Controlled Growth, E. Expiration.

The meeting was adjourned at 10:50pm.

Respectfully submitted,

Nancy J. Marden, Administrative Assistant