



ZONING BOARD OF ADJUSTMENT  
EAST KINGSTON, NEW HAMPSHIRE

## NOTICE OF DECISION

The East Kingston Zoning Board of Adjustment held a duly noticed public hearing on July 27, 2023, which was continued to August 24, 2023, on the application for VARIANCE requests submitted by GEORGE G. WHITEMAN and JILL A. WHITEMAN seeking variances from East Kingston Zoning Ordinance Article III-B.1, Article III-B.2, Article XVI.A, Article XVI.C.3, Article XVI.C.6, Article XVI.C.7, Article XVI.D.2, Article XVI.F, and Article XVI.G. The applicants proposed to operate G&J Transportation, LLC, a business office with the parking and storage of a commercial vehicle exceeding 14,000 GVWR at 18 ROWELL ROAD.

**Case# 2023-03**

**GEORGE G. & JILL A. WHITEMAN**

**PROPERTY LOCATION: 18 ROWELL ROAD**

**MBL# 10-17-02**

Based on the information and testimony presented, and measured against the variance criteria as provided under RSA 674:33, the Board hereby renders the following decisions:

1. Variance Request #1 from **Article 111-B.1 Residential/Agricultural District**: The parking of not more than one commercial vehicle of 14,000 GVWR or less is permitted and shall not have the appearance of business operations from the property. – **DENIED BY VOTE OF 5-0-0. *The applicant failed to satisfy the spirit of the ordinance and hardship criteria.***
2. Variance Request #2 from **Article 111-B.2 Residential Agricultural District**: Business operations (wholesale or retail), operations of commercial equipment owned by the property owner and/or resident, operations of commercial equipment not owned by the resident (i.e. equipment operated for others), commercial or industrial operations, such as, but not limited to, trucking, hauling, excavation, mining, manufacturing, or any such similar operations are strictly prohibited within this district. – **DENIED BY VOTE OF 5-0-0. *The applicant failed to satisfy the public interest, spirit of the ordinance, surrounding property values, and hardship criteria.***
3. Variance Request #3 from **ARTICLE XVI.A - HOME OCCUPATIONS Definitions**: A Home Occupation is a professional occupation, service business or the production or selling of a product that is carried out from the primary dwelling which is clearly accessory and subordinate to the residential use of the property. A Home Occupation may not be conducted in an Accessory Dwelling Unit. An Invisible Home Occupation is one with no visible activity conducted outside the home. – **DENIED BY VOTE OF 5-0-0. *The applicant failed to satisfy the spirit of the ordinance, surrounding property values and hardship criteria.***
4. Variance Request #4 from **ARTICLE XVI.C.3 - HOME OCCUPATIONS Standards**: Adequate off-street parking must be provided for customers and deliveries. All businesses must provide adequate turnaround, drop-off, and pick-up areas in order to prevent cars from waiting in the street right-of-way and to prevent cars from backing up into the public right-of-way. The Home Occupation shall not require regular need for delivery of materials to and from the premises by commercial vehicles over twelve- thousand (12,000) pounds GVWR (e.g., tractor trailers and heavy commercial vehicles). – **DENIED BY VOTE OF 5-0-0. *The applicant failed to satisfy the public interest, spirit of the ordinance and the hardship criteria.***
5. Variance Request #5 from **ARTICLE XVI.C.6 - HOME OCCUPATIONS Standards**: Home occupation must not cause excessive vibrations, store or handle combustible or explosive materials, or negatively impact the physical condition, safety, access or traffic volume of existing roads. – **DENIED BY VOTE OF 5-0-0. *The applicant failed to satisfy the public interest, spirit of the ordinance, surrounding property values and hardship criteria.***
6. Variance Request #6 from **ARTICLE XVI.C.7 - HOME OCCUPATIONS Standards**: The Home Occupation must not utilize more than 25% of the gross floor area including dwelling, basement and accessory structures. – **DENIED BY VOTE OF 5-0-0. *The applicant failed to satisfy the spirit of the ordinance and the hardship criteria.***

7. Variance Request #7 from **ARTICLE XVI.D.2 - HOME OCCUPATIONS Exceptions**: Administrative support for businesses or services that are conducted on or off-site of the residential premises are exempt from the public hearing of the application process but must complete a Home Occupation application for the purposes of municipal record keeping, pay the annual Invisible Home Occupation Permit Fee, and meet with the Planning Board to present the application and receive a favorable recommendation from the Planning Board. – **DENIED BY VOTE OF 5-0-0. *The applicant failed to satisfy the spirit of the ordinance, surrounding property values and hardship criteria.***
8. Variance Request #8 from **ARTICLE XVI.F - HOME OCCUPATIONS USES NOT PERMITTED**: The following uses are not permitted as a Home Occupation: adult oriented business; fireworks storage, manufacture and sales; industrial and commercial manufacturing or activity; vehicle restoration and auto body shops; storage, handling or sales or regulated substances. – **DENIED BY VOTE OF 5-0-0. *The applicant failed to satisfy the spirit of the ordinance, surrounding property values and hardship criteria.***
9. Variance Request #9 from **ARTICLE XVI.G - HOME OCCUPATIONS PERMIT REQUIRED**: An annual permit to operate each home occupation must be obtained from the Board of Selectmen during the second quarter of the calendar year beginning in 1989. Agricultural/Farm home occupations and Family Day Care operations (up to six preschoolers plus up to three school-age children (Section E.5)) shall be exempt from these permitting procedures.

There shall be an annual permit fee charged to cover the costs for Board of Selectmen review, administration and enforcement of the ordinance.

Businesses whose owners can demonstrate that they do not create any traffic, visual, or other impacts on the neighborhood may be deemed by the Selectmen as being an “invisible business with a reduced permit fee. An invisible status does not relieve these businesses from compliance with the provisions of this and all other sections of the zoning ordinance. A minimum annual fee shall be charged to those home occupations identified as “invisible” to defray the administrative costs of annual review and Board of Selectmen oversight. – **DENIED BY VOTE OF 5-0-0. *The applicants failed to satisfy the public interest, spirit of the ordinance and hardship criteria.***

Tim Allen, Chairman  
East Kingston Zoning Board of Adjustment

Date of Notice: August 28, 2023

NOTE: The selectmen, any party to the action, or any person directly affected has a right to appeal this decision. See RSA 677. This notice has been placed on file for public inspection in the records of the Zoning Board of Adjustment. Copies of this notice have been distributed to the applicant, members of the Planning Board, the Board of Selectmen, the Building Inspector, the Town Clerk, and the Property Tax Assessor (Town Administrator).