



ZONING BOARD OF ADJUSTMENT
EAST KINGSTON, NEW HAMPSHIRE

NOTICE OF DECISION

The East Kingston Zoning Board of Adjustment met on February 1, 2023 at 7pm at 41 Depot Road, East Kingston to act on a **Motion for Rehearing** with respect to their December 29, 2022 decision to deny the Appeal from Administrative Decision of Bradley Poole with respect to a cease and desist Notice of Violation Use of 116 North Road, MBL# 15-03-14, that was issued by the Board of Selectmen Chairperson Cacciatore on October 17, 2022 in relation to the Town of East Kingston Zoning Ordinance Article III-B – Residential/Agricultural District and Article XVI – Home Occupations.

Case# 2023-01

BRADLEY POOLE

PROPERTY LOCATION: 116 NORTH ROAD

MBL# 15-03-14

After careful review and consideration of the 19 items raised in the applicant's Motion for Rehearing, the Zoning Board of Adjustment voted to **DENY** the Motion for Rehearing based on their determination no technical errors were made with respect to the process and/or interpretation of the Zoning Ordinance, the decision was not unlawful or unreasonable, nor was any new evidence presented that was not available to the applicant at the time of the original hearing.

Timothy Allen, Chair
East Kingston Zoning Board of Adjustment

Date of Notice: February 6, 2023

NOTE: Any person aggrieved by any order or decision of the zoning board of adjustment or any decision of the local legislative body may apply, by petition, to the superior court within 30 days after the date upon which the board voted to deny the motion for rehearing. The petition shall set forth that such decision or order is illegal or unreasonable, in whole or in part, and shall specify the grounds upon which the decision or order is claimed to be illegal or unreasonable. For purposes of this section, "person aggrieved" includes any party entitled to request a rehearing under RSA 677:2.



ZONING BOARD OF ADJUSTMENT
EAST KINGSTON, NEW HAMPSHIRE

NOTICE OF DECISION

The East Kingston Zoning Board of Adjustment met on March 23, 2023 at 7pm at 41 Depot Road, East Kingston to act on a **SECOND REQUEST** for **Motion for Rehearing** with respect to their December 29, 2022 decision to deny the Appeal from Administrative Decision of Bradley Poole with respect to a cease and desist Notice of Violation Use of 116 North Road, MBL# 15-03-14, that was issued by the Board of Selectmen Chairperson Cacciatore on October 17, 2022 in relation to the Town of East Kingston Zoning Ordinance Article III-B – Residential/Agricultural District and Article XVI – Home Occupations.

Case# 2023-01

BRADLEY POOLE

PROPERTY LOCATION: 116 NORTH ROAD

MBL# 15-03-14

After careful review of the new information provided by the applicant (excerpts from the 2002 Home Occupation Ordinance), the Zoning Board of Adjustment voted to **DENY** the SECOND REQUEST for Motion for Rehearing based on the Board's determination no errors were made with respect to their December 29, 2022 or February 1, 2023 decisions, nor did this new information change the Board's position that the business is not grandfathered for operation or for commercial vehicle storage.

Timothy Allen, Chair
East Kingston Zoning Board of Adjustment

Date of Notice: March 27, 2023

NOTE: Any person aggrieved by any order or decision of the zoning board of adjustment or any decision of the local legislative body may apply, by petition, to the superior court within 30 days after the date upon which the board voted to deny the motion for rehearing. The petition shall set forth that such decision or order is illegal or unreasonable, in whole or in part, and shall specify the grounds upon which the decision or order is claimed to be illegal or unreasonable. For purposes of this section, "person aggrieved" includes any party entitled to request a rehearing under RSA 677:2.



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 on the application for an Appeal from Administrative Decision submitted by George G. and Jill A. Whiteman alleging an error had been made in the decision, determination or requirement of the May 18, 2023 Planning Board recommendation and the June 12, 2023 Board of Selectmen decision to not approve the Whiteman's invisible home occupation proposal to operate G&J Transportation, LLC from 18 Rowell Road, MBL# 10-17-02. The appeal cited the Planning Board and Selectmen misconstrued and misapplied the terms of East Kingston Zoning Ordinance articles related to the Residential/Agricultural District: Article III-B.1, Article III-B.2, and articles related to Home Occupations: 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 Board rendered the following decision:

Case# 2023-02

GEORGE G. & JILL A. WHITEMAN

PROPERTY LOCATION: 18 ROWELL ROAD

MBL# 10-17-02

Based on the information and testimony presented, the Board determined the Planning Board, in its interpretation of the Zoning Ordinance, did not err in its judgement or recommendation to the Board of Selectmen to not grant an invisible home occupation permit, nor did the Board of Selectmen, in its interpretation of the Zoning Ordinance, err in its judgement or decision to deny an invisible home occupation permit to the applicants. Therefore, the Board voted (4 in favor and 1 abstention) to **DENY** the **APPEAL FROM ADMINISTRATIVE DECISION**. The basis for this decision is outlined, in part below, and in greater detail in the Board's Finding of Fact and meeting minutes:

- ARTICLE III-B.1 – The applicant's 19,000 GVWR tractor trailer unit exceeds the allowable limit of 14,000GVWR for parking in a residential district.
- ARTICLE III-B.2 – The applicant's commercial trucking operation is not a permitted use in a residential district.
- ARTICLE XVI.A – The tractor trailer unit activity creates a visible presence of a business not conducive to an invisible home occupation application.
- ARTICLE XVI.C.3 – The tractor trailer unit would likely impede the traffic flow on Rowell Road.
- ARTICLE XVI.C.6 – The tractor trailer activity does not meet the criteria regarding negatively impacting the physical condition, safety, access or traffic volume of existing roads.
- ARTICLE XVI.C.7 – The storage of a tractor trailer unit in a 40'x70' building does not meet the 25% allowable gross floor limit.
- ARTICLE XVI.D.2 – The trucking operation does not meet the standards as an invisible home occupation.
- ARTICLE XVI.F – The trucking operation is considered a commercial activity not permitted as a home occupation.
- ARTICLE XVI.G – The tractor trailer unit activity creates a visible presence of a business not conducive to an invisible home occupation.

Ed Robbins, Vice Chair
East Kingston Zoning Board of Adjustment

Date of Notice: August 2, 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).



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 of 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).



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 August 24, 2023 at 41 Depot Road, East Kingston to act on the application for a special exception for an accessory dwelling unit as permitted under East Kingston Zoning Ordinance Article VIII – Uses Permitted, paragraph F and rendered the following decision for:

Case# 2023-04

JENNIFER SMITH

PROPERTY LOCATION: 91 POWWOW RIVER ROAD

MBL# 03-01-02

Based on the information presented, the Board determined the special exception requirements (subparagraphs a-g, including NH Department of Environmental Services approval of the septic design plan), along with applicable zoning requirements were met with respect to the said applicant's request. Therefore, and by unanimous vote of the five voting members present, the board **GRANTED APPROVAL** of the **SPECIAL EXCEPTION** from Article VIII - Uses Permitted Paragraph F. for an accessory dwelling unit with the following requirements:

- (As prescribed by subparagraph g):
The septic system as presented and as approved by the NH Department of Environmental Services (eCA2023062003) be constructed.
- (As prescribed by subparagraph h):
Certificate of Occupancy. When renovation or construction is complete, and the accessory dwelling unit is ready for occupation, the owner shall request a Certificate of Occupancy from the Building Inspector.

Timothy Allen, Chair
East Kingston Zoning Board of Adjustment

Date of Notice: August 27, 2023

Special exceptions authorized under RSA 674:33 shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause, provided that no such special exception shall expire within 6 months after the resolution of a planning application filed in reliance upon the special exception.

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, the Property Tax Assessor (Town Administrator) and will be recorded at the Rockingham Registry of Deeds.



ZONING BOARD OF ADJUSTMENT
EAST KINGSTON, NEW HAMPSHIRE

NOTICE OF DECISION

The East Kingston Zoning Board of Adjustment met on October 16, 2023 at 7pm at 41 Depot Road, East Kingston to act on a **Motion for Rehearing** (Case# 2023-05) with respect to their July 27, 2023 decision to deny the Appeal from Administrative Decision of George and Jill Whiteman (G&J Transportation LLC), Case# 2023-02, as it relates to their proposal to operate an invisible home occupation from their residence located at 18 Rowell Road, East Kingston, NH, MBL# 10-17-02.

GEORGE & JILL WHITEMAN
PROPERTY LOCATION: 18 ROWELL ROAD
MBL# 10-17-02

After careful review and consideration of the items raised in the applicant's Motion for Rehearing, the Zoning Board of Adjustment voted unanimously to **DENY** the Motion for Rehearing based on their determination no technical errors or mistakes were made with respect to the process and/or interpretation of the Zoning Ordinance, the decision was not unlawful or unreasonable, that all of the items raised by the applicant in the Motion for Rehearing were read and understood by board members resulting in a determination that no grounds for a rehearing were established, nor was any new evidence presented in the a Motion for Rehearing that would cause board members to reconsider their original decision to deny the Appeal from Administrative Decision.

Ed Robbins, Vice Chair
East Kingston Zoning Board of Adjustment

Date of Notice: October 17, 2023

Motion for Rehearing Case# 2023-05

NOTE: Any person aggrieved by any order or decision of the Zoning Board of Adjustment or any decision of the local legislative body may apply, by petition, to the superior court within 30 days after the date upon which the board voted to deny the motion for rehearing. The petition shall set forth that such decision or order is illegal or unreasonable, in whole or in part, and shall specify the grounds upon which the decision or order is claimed to be illegal or unreasonable. For purposes of this section, "person aggrieved" includes any party entitled to request a rehearing under RSA 677:2.



ZONING BOARD OF ADJUSTMENT
EAST KINGSTON, NEW HAMPSHIRE

NOTICE OF DECISION

The East Kingston Zoning Board of Adjustment met on October 16, 2023 at 7pm at 41 Depot Road, East Kingston to act on a **Motion for Rehearing** (Case# 2023-06) with respect to their July 27, 2023 decision to deny nine Variance requests of George and Jill Whiteman (G&J Transportation LLC), Case# 2023-03, as it relates to their proposal to operate an invisible home occupation from their residence located at 18 Rowell Road, East Kingston, NH, MBL# 10-17-02.

GEORGE & JILL WHITEMAN
PROPERTY LOCATION: 18 ROWELL ROAD
MBL# 10-17-02

After careful review and consideration of the items raised in the applicant's Motion for Rehearing, the Zoning Board of Adjustment voted unanimously to **DENY** the Motion for Rehearing based on their determination no technical errors or mistakes were made with respect to the process for granting variances, the decisions were not unlawful or unreasonable, that all of the items raised by the applicant in the Motion for Rehearing were read and understood by board members resulting in a determination that no grounds for a rehearing were established, nor was any new evidence presented in the a Motion for Rehearing that would cause board members to reconsider their original decision to deny the Variance requests.

Timothy Allen, Chair
East Kingston Zoning Board of Adjustment

Date of Notice: October 17, 2023

Motion for Rehearing Case# 2023-06

NOTE: Any person aggrieved by any order or decision of the Zoning Board of Adjustment or any decision of the local legislative body may apply, by petition, to the superior court within 30 days after the date upon which the board voted to deny the motion for rehearing. The petition shall set forth that such decision or order is illegal or unreasonable, in whole or in part, and shall specify the grounds upon which the decision or order is claimed to be illegal or unreasonable. For purposes of this section, "person aggrieved" includes any party entitled to request a rehearing under RSA 677:2.