

PLANNING BOARD

Town of Waterboro PUBLIC HEARING

FEBRUARY 12, 1997

7:00 P.M.

PROPOSED CHANGES TO SECTION 7.04 , HOME OCCUPATIONS, 14.02 DEFINITIONS AND 3.09 LAND USE CHART AS WELL AS SECTION 12.01 FEES.

The meeting was called to order by Douglas Foglio, Sr., Chairman of the Planning Board at 7:05 p.m.. Present from the Planning Board were Roland Denby, Larry Jacobsen, Everett Whitten, Judi Carll, Dwayne Woodsome, John Roberts and Chairman. Also present were Dennis Abbott, Robert Fay and Dale Witman, Board of Selectmen, Ralph Stanley, Code Enforcement Office, Pat Sicard, Selectmen's Assistant/Town Planner, Sharon Abbott, Clerk for the Planning Board and eight citizens from the public.

Douglas Foglio asked Sharon how many locations the hearing had been advertised. The Journal Tribune, Smart Shopper, Local Post Offices and Our Town News. Doug indicated that the date was not included in Our Town newspaper. The same notice was forwarded to all locations.

Douglas Foglio indicated to those present the purpose for the hearing was two fold 1) being to discuss changes to Home Occupations and 2) to allow Selectmen to set fees both issues proposed changes to the Zoning Ordinance for the Annual Town Meeting, March 8, 1997. Doug then opened the meeting to the general public for comments on the printed changes.

First to speak was Paul Kussmann - He indicated that he is looking forward to retiring in the future and he enjoys the quality of life that Waterboro enjoys. He indicated that it looks as though the proposed changes would liberalize the Home Occupations they would be less restrictive - appears to enlarge the signs and would be silent on the number of employees allowed. Mr. Kussmann asked if this was the intent of the changes and if so why?

Dwayne Woodsome indicated that the intent was to open home occupation uses to not keep the uses silent. There is currently a Business Directory started and not everyone sneaking in businesses that they feel they would need to hide.

Mr. Kussmann- Would this affect taxes collected by the Town? Does property value go up if a business is located within the home?

Dennis Abbott - The only affect would be personal property tax on equipment that would be used for the business use but property would not be taxed as commercial. It is not the intent to broaden tax base.

Larry Jacobsen - Indicated that he had spoken to the Tax Assessor and only tools or equipment would be taxed as personal property. He also indicated that they may be tax advantages for people that have a home occupation when filing their yearly Federal Tax Return.

Mr. Kussman - What brought forth the changes?

Doug Foglio - Noted that the board had held previous Public Hearings and the sentiment from those hearings was to allow home occupations. One individual had indicated that if he held computer courses within his home and had more than two instructors with the current regulations the individual would be in violation of the ordinance. He indicated that several people have noted with the current regulations would be restricted. Doug also noted that when this was drafted there were certain uses that not allowed. Those did not get added.

Larry Jacobsen - Almost impossible to cover all uses. The performance standards dealing with mechanical, electrical or other equipment which produces a nuisance, noise, vibrations, smoke, dust, odors, magnetic interference or electrical disturbance would restrict some uses.

Mr. Kussman - Who enforces this? A nuisance to someone maybe a necessity to someone else. He is coming to a town that has charm. The advantages of zoning is to plan the type of town we want to be in 25 to 50 years. The character and usage of properties such as residential /rural quality.

Larry Jacobsen - To a lot of people the largest investment their home. It is harder to own a home and not be allowed to work within it other than to reside within it. Larry felt the need to allow the usage of a home for home occupation.

Mr. Kussmann - Examples such as home computer service which would be relatively invisible while those that are being deleted as not allowed would be intrusive.

Duane Fay - How can a home occupation taking place in a garage affect the neighbor if they meet the standards?

Mr. Kussmann - Indicated that you may have a neighbor that is very neat and then another who leaves a lot of debris laying around. Who would enforce this?

Duane Fay - Noted you wouldn't need to worry about enforcement in this town! If you have a complaint call the Code Enforcement Officer.

Bob Fay - No one wishes to add problems. If you what to control neighbors land you should consider buying it.

Mr. Kussmann - Noted that to report a problem to the C.E.O would create disharmony with neighbors. The proposed changes could cause more problems in the future.

Bob Fay - Home Occupations are difficult to enforce however the town does have other ordinances such as Hazardous Waste Ordinances that cover other areas of concern and help protect.

Larry Jacobsen - Noted a diverse job base. Professional uses might be viewed as okay while a body shop might be a use that some might find offensive. Everyone looks at their specific interest and it is the job of the planning board to protect everyone.

If a neighbor were to complain to the Code Enforcement Office and action was taken that a neighbor did not agree with any individual has the right to appeal a decision to the Zoning Board of Appeals.

What is the difference between Home Occupation and Business - the determining factor is when does it become a business. It was noted that when the occupation cannot be kept within the home. An auto body shop would be hard to keep inside.

John Roberts - Indicated that he was not aware of anyone having a five car garage that was mentioned and other than a 9 sq. ft. sign the occupation should not be known.

Dennis Abbott - In the determination process for compliance a neighbor would have a right to appeal.

Other than a sign you should not know that a home occupation exists.

Dwayne Woodsome - Other uses might be allowed but would require Planning Board review and approval. People have home occupations now not much would change.

Ralph Stanley - Currently a Use permit is issued by the Code Enforcement Officer. The board needs to implement regulations that allow consistency. How much is a tax payer willing to spend to determine, for instance, traffic flow to see if a home occupation is increasing the traffic flow? Lighted sign - If for instance property owners within Brookside Subdivision were to all have lighted signs and someone were to leave the lights on longer than allowed, what provisions are existing to allow for enforcement. Currently as written there is not much that could be done.

Dennis Abbott - Anyone can challenge the ordinance. If a home is required to have more parking then doesn't that automatically indicated an increase in traffic?

John Roberts - The language would not change from existing ordinance for Home Occupations, has Mr. Stanley received any calls?

Mr. Stanley indicated that he agreed with the changes - however the board needs to insure that the standards are clear and not ambiguous.

John Roberts indicated that he has been a member of the Planning Board for many years and he cannot remember code enforcement officers having a problem.

In the past Auto body repair was not allowed as a Home Occupation with the proposed changed - potential now for that to happen. Mr. Stanley noted that in his years of experience there can be problems of noxious odors. If the C.E.O. were to request a filtration system at a significant cost any property owner would balk at this, it then becomes a push and shove situation when livelihood is in jeopardy.

Judi Carll - No matter what regulations are in place nothing is cut and dried.

Bob Fay - Noted that he would not like an auto body shop or some other uses but we need to open things up a bit.

John Roberts - At previous hearings people have been concerned with home day care. Our ordinance allows 6 or less as a home occupation. The State now licenses these facilities for 12 children. People indicated that the ordinance was too restrictive and needed to update the ordinance. The board is trying to do that.

Doug Foglio - Discussed traffic issue at length. Felt that Mr. Stanley had made a very good point.

Bob Fay - noted that recreational vehicles can be more of a nuisance than additional traffic.

Dennis Abbott - noted that the standards are basically the same as existing. The removal of the number of people allowed to work that are not directly related and the percentage of the home allowed to be utilized and the list of non-allowed uses this basically reads the same. Traffic could definitely be an issue. Mr. Abbott noted someone might have a Mail box etc. business and this could generate an abnormal amount of traffic.

The ordinance alone could be the most protective. Doug Foglio indicated that it now reads to review once every three years. He indicated that he felt it should be mandatory that two hearings a year be held to allow people to voice their concerns.

Bob Fay - People want less restrictions. The board can revisit the changes in a year if they find a problem.

Roland Denby indicated that the board has held several hearings/forums to acquire input from citizens and that information has assisted the board in the need to lessen restrictions. Roland also noted that there are other regulations both state and local that govern some uses other than land use which is governed by the Waterboro Zoning Ordinance. The town is growing and the board cannot foresee everything.

Mr. Kussmann - Asked for clarification on the difference between a home occupation and a business use that would not enjoy the regulations of home occupation?

It was noted that a home occupation is a secondary use to the home. There must be a home unit. A business use would be in a building that had no kitchen and operated with no one living within the structure. A business can be run on property. A home occupation must be completely within the home. Hairdressing - would not be a business. The business would probably only use two rooms and potentially have no more than four cars at one time.

Richard Sevigney - Anything can happen unless someone complains and authorities are notified. He noted that less restriction will infringe on the quality of life within a neighborhood.

Pat Sicard - Commented on the characteristics of Waterboro being very rural and a bedroom community. With companies downsizing more people are working within their homes. While retaining the rural atmosphere the board is looking to:

- a) accommodate the needs of the community, and
- b) encourage atmosphere for start up businesses that will grow into local commerce in the future.

Rural characteristics have pollution, noise by means of operating chain saws, farm equipment, manure spreading and many times those uses are disturbing to others.

Duane Fay - Noted that not everyone is retiring many are young and have families and need to work in a place that is less expensive. Also noting that neighbors have certain rights as well.

Section 12.01 Fees

Dennis Abbott indicated that in the past fees have been inclusive in the zoning ordinance. There has been no approach to change them in at least seven years. Should the towns people be funding the building industry. Maybe the proposed change would allow a better assessment of fees. The change as presented defines the method for change which would allow public input by means of a public hearing prior to any fee changes.

Duane Fay - Asked if the fees would be determined by the Board of Selectmen or would this be passed to someone to protect their budget.

The Board of Selectmen will set fees upon holding a public hearing for feedback. Would the persons setting the fees be accountable?

John Roberts - Indicated that the townspeople would have to vote on a change to the fees as the ordinance allows right now. With the proposed change he feels uncomfortable since the vote would not be from the public at large.

Mr. Abbott - Noted that approximately 100 plus people would be making a decision for thousands of people. Is that a fair number to be making decision for the community.

Mr. Foglio - Noted that information received from a public hearing can be overlooked and a vote can be made opposing public sentiment.

Discussion followed regarding the potential to create escrow accounts during development to protect the town from having to expend money to consultants and then wait for the developer to reimburse the town. A few subdivisions were named that the town has had to complete roads after the developer has failed to provide the financing.

It was noted that it was a sad situation when the board advertises considerably and only a handful of people that attend the meetings. There are over 3,000 registered voters yet they don't attend hearings.

Bob Fay - Indicated that the proposed change would allow a less cumbersome method then being tied into the ordinance. Selectmen have fiscal responsibility to the citizens of Waterboro. Mr. Fay stated he believes the fee structure should be taken out of the ordinance.

Dale Witman - Stated that it was the consensus of the Board of Selectmen to streamline the process for fees to allow a more responsive changes.

Douglas Foglio closed the hearing at 8:23 p.m.

Respectfully submitted,

Dwayne Woodsome
Secretary/Treasurer