

Kennebunkport Zoning Board of Appeals
HYBRID MEETING via ZOOM and IN Person
Monday, May 8, 2023 @ 6:00 P.M.
Village Fire Station, 32 North Street, Kennebunkport

A hybrid meeting of the Kennebunkport Zoning Board of Appeals was held on Monday, May 8th, 2023 in person and via Zoom. The meeting convened at 6:00 p.m.

Members Present: Mr. Paul Cadigan (Chair), Karen Schlegel, April Dufoe, Michelle Powell, Kevin MacDonnell Marybeth Gilbert

Mr. Cadigan performed a roll call and confirmed a quorum.

1. Approval of Minutes from October 3rd, 2022.

Mr. Cadigan made a motion to defer approval of the October 3rd, 2022 minutes until the next Zoning Board of Appeals meeting. Mr. MacDonnell seconded the motion, and the vote was unanimous.

2. Wendy Good and Timothy Good – The applicants seek approval to utilize an outbuilding at their home located at 88 Goose Rocks Road for their home occupation, specifically, for a gallery, classroom for watercolor lessons, customer meetings and order pick up location (alternative to 11 Ocean Avenue, Kennebunkport). Assessor's Tax Map 16, Block 1, Lot 2 in the Farm and Forest Zone.

Due to a miscommunication with the Applicant and the Code Enforcement Office, Ms. Powell made a motion to waive the requirement for the Good's Application that this Board needed to receive via U.S. Mail written copies of the materials at a certain date prior to this hearing. Ms. Schlegel seconded the motion, and the vote was unanimous.

Mr. Cadigan introduced the Application and explained the order of the meeting.

Mr. Tim Good addressed the Board along with his wife Wendy Good and gave a brief personal history. Mr. Good stated his wife's store is the second lowest in Dock Square and during storms it floods frequently. Mr. Good explained they are looking to take an outbuilding on their home property and set it up like a gallery with classroom type space where Ms. Good and 2 or 3 people could sit around a table for painting lessons. The space would also be used to fulfill on-line orders and as an alternative location for customers to pick up orders, Mr. Good added.

Mr. MacDonnell asked how many parking spots are at the location. Mr. Good replied their house and outbuilding is 100+ feet off Goose Rocks Road and there are 5 spaces on the pavement plus a couple other spaces. Mr. Gilliam offered the 2 garage spaces in their home qualifies for the family so everything outside the garage would be for the home occupation. Mr. Gilliam added he has driven by and visited the property a number of months back and there are certainly adequate parking spaces.

Mr. Cadigan asked if there would be a cap on the number of people in each class. Ms. Good replied she would have no more than 4 people in any one class.

Mr. Cadigan asked if the Applicants planned to hire any help for this home occupation. Mr. Good responded not specifically for this business but maybe a staff person from the shop would come by, but no one would be working out of the building.

Mr. MacDonnell asked if there would be any signage associated with the business. Ms. Good said no but there may be a small sign on the building itself to distinguish it from the residence. Ms. Good added she wants to keep it simple as it is also her home.

Mr. Gilliam read the requirement from the Land Use Ordinance section 240-6.12.E. which states “*Home occupation signs. One sign identifying the name, address and profession of a permitted home occupation or a lawfully existing nonconforming home occupation shall be allowed, provided such sign does not exceed two square feet in area and is not illuminated.*”

Mr. Good agreed to the requirement Mr. Gilliam read.

Ms. Schlegel asked if they would provide bathroom facilities and how they would dispose of their paint supplies. Ms. Good responded she uses water-based paint not oil-based or acrylic that would require special disposal and she does not anticipate the need for a bathroom but if so, they can go in the house.

Ms. Dufoe asked about the condition of the shed to be used as a home occupation and if it is insulated or sheet rocked. Mr. Good replied it is unfinished and currently houses his equipment which will be removed and will need to obtain a permit to finish it off. Ms. Good added it needs to be sheet rocked and insulated.

Ms. Dufoe asked Mr. Gilliam what is required by the town for the Applicant to hold lessons in the shed. Mr. Gilliam responded, depending on the seasonality of it, if it’s intended to be used year-round there are Code Requirements for it to be insulated, if it will be heated, and egress elements will need to be verified. Mr. Gilliam added it will need to have lighting, sheet rock, and a finished floor.

To further explain the process, Mr. Gilliam stated the Applicants would need to get 3 things: 1) Zoning Board approval for the home occupation; 2) Building Permit where the Code Enforcement Office would be looking for the specifications to finish the interior, and 3) once finished, the Code Enforcement Office would do an inspection for the insulation piece, and electrical work would need to be done by a licensed master electrician. Then the Code Enforcement Office would do a final inspection. Mr. Gilliam added they are not required to have a water line in the new business.

After the Board members and Mr. Gilliam had a brief discussion on home occupation in the Farm and Forest Zone, Mr. Cadigan asked the Applicant if they were comfortable putting a cap on the number of students allowed per lesson at 4. Ms. Good agreed to Mr. Cadigan’s statement adding she would also be meeting 1 or 2 customers at time to discuss custom framing projects.

To address concerns this Application is for a satellite retail location of their business in Dock Square Mr. Good explained their intent is not to duplicate their store but to help facilitate picking up purchased items and for classes and consultation of clients.

Mr. Cadigan opened the Public Hearing. There were no comments or questions from members of the audience in person or on Zoom. Mr. Cadigan closed the Public Hearing.

The Board members and Mr. Gilliam had a brief discussion on the definition and nature of a retail business and a home occupation.

Mr. Cadigan read Article 240-7.6 from the Land Use Ordinance which states:

- A. *Any home occupation or profession which is accessory to and compatible with a residential use may be permitted as a conditional use by the Zoning Board of Appeals, provided that:*
 - (1.) *It is customarily carried on in a dwelling unit or in a structure customarily accessory to a dwelling unit.*
 - (2.) *It is carried on primarily by a member or members of the family residing in the dwelling unit.*
 - (3.) *It does not materially injure the character or usefulness of the dwelling unit or accessory structure for normal residential purposes.*

All Board members were in agreement the Application meets all 3 requirements.

Mr. Cadigan then read through each requirement listed for Home Occupation in Article 240-7.6B.1 through 9. During that review the Applicant noted the hours of operation would be 9:00am to 5:00pm and that they do not have any other home occupations or accessory apartments.

Ms. Schlegel commented in her disclosure she does know the Applicants personally.

Ms. Schlegel made a motion to accept the Application as written and grant them their home occupation. Ms. Gilbert seconded the motion, and the vote was unanimous.

3. *Election of Officers*

Mr. MacDonnell nominated April Dufoe as Chair of the Zoning Board of Appeals. Mr. Cadigan seconded the nomination, and the vote was unanimous (6-0).

Ms. Schlegel nominated Kevin Mac Donnell as Vice Chair of the Zoning Board of Appeals. Ms. Powell seconded the nomination, and the vote was unanimous (6-0).

Mr. MacDonnell nominated Karen Schlegel as Secretary of the Zoning Board of Appeals. Ms. Dufoe seconded the nomination, and the vote was unanimous (6-0).

Mr. MacDonnell thanked Mr. Cadigan for his many years of service.

Adjournment: A motion was made to adjourn; it was seconded, and the vote was unanimous.

Submitted by: Patricia Saunders, Recording Secretary