

Kennebunkport Zoning Board of Appeals
32 North Street, Village Fire Station
March 24, 2014 @ 7:00 P.M.

A meeting of the Kennebunkport Zoning Board of Appeals was held on Monday, March 24, 2014. The meeting convened at 7:00 p.m. in the North Street Fire Station.

1. Attendance

Members Present: Mr. Mark Messer (Chair), Herb Cohen, Christopher Perry, Paul Cadigan, Wayne Fessenden

Others Present: Werner Gilliam, Wayne Adams

2. Approval of minutes from the July 22, 2013 meeting, as well as any minutes not previously approved.

The minutes from the May 20, 2013 meeting were approved at the July 22, 2013 meeting.

Mr. Perry suggested the Board meet within a month's time from today to approve the minutes if no other meetings are scheduled.

3. **Adams Farm Realty Trust** - The Applicant is seeking to create a retail space within an existing room located on the side of their barn for a studio/showroom for a home occupation. The Conditional Use Application is available for review in the Code Enforcement Office at the Kennebunkport Town Hall. The property location is 111 North Street, Tax Map 12, Block 003, Lot 3B in the Free Enterprise Zone.

Mr. Messer introduced the Agenda item.

Mr. Wayne Adams, representing his wife Catherine addressed the Board stating his wife runs a small business called CatWear that designs, manufactures and sells a line of lightweight fleece apparel in two shops; one in Kennebunkport and one in Portland. Mr. Adams explained a large part of her business is from repeat customers and online orders where in order to fill those orders she works a large percentage of time out of a room on the side of their barn approximately 190 sq. ft. Mr. Adams concluded she is here tonight asking for approval to use that space in their barn as a home occupation to continue to fill online orders and ship them along with a small area to display some of her items.

Mr. Messer asked when the structure was built. Mr. Adams replied the front part was built in 1854, the rear in the 1890s and the barn was built just before the turn of the century.

Mr. Messer explained for home occupations there are some standards in the Ordinance and suggested the Board review each standard one at a time.

Mr. Messer opened the Public Hearing. There were no questions or comments from the public. Mr. Messer closed the Public Hearing.

Mr. Messer noted according to Article 4 of the Land Use Ordinance home occupations are a conditional use subject to a Zoning Board of Appeals Review.

Mr. Messer instructed the Board to review Article 7.6 Home Occupation and suggested the Board examine as a whole each item and ask questions if necessary.

Article 7.6 Home Occupation

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 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.

Mr. Adams explained the business process is the fabric comes in bulk and is stored in a shed at the farm, is cut in pieces at a separate location, is pieced together by home stitchers and is then accessorized and tagged by Catherine at home.

2. It is carried on primarily by a member or members of the family residing in the dwelling unit.

Mr. Adams stated the work will be carried out primarily by Catherine.

3. *It does not materially injure the character or usefulness of the dwelling unit or accessory structure for normal residential purposes.*

Mr. Messer announced the Board had no issues with this item.

B. *All home occupations shall conform with the following conditions:*

1. *The home occupation shall be carried on wholly within the dwelling or accessory structure.*

Mr. Perry offered there was no issue with this item as the Applicant is already filling internet orders from home.

2. *The home occupation shall be carried on primarily by a member or members of the family residing in the dwelling unit. Not more than two (2) persons, other than family members residing in the dwelling unit, shall be employed on the premise in connection with the home occupation.*

Mr. Messer asked if there would be three or more people working there? Mr. Adams replied there may be one more person working there at the most.

3. *There shall be no exterior display, no exterior signs other than those permitted in Article 6.12.E, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.*

Mr. Messer asked if they would display any signs. Mr. Adams replied the ordinance permits one small sign so they would display.

4. *Objectionable conditions such as noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare, or activity at unreasonable hours, shall not be permitted.*

Mr. Adams said this did not apply to nature of the home occupation.

5. *The traffic generated by such home occupation shall not increase the volume of traffic so as to create a traffic hazard or disturb the residential character of the immediate neighborhood.*

Mr. Adams stated they do not anticipate a lot of walking traffic and have more people stopping there now to take pictures than for business purposes.

6. *In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicles of each employee and the vehicles of the maximum number of users the home occupation may attract during peak operating hours. Parking for more than one (1) vehicle used primarily for the home occupation shall require explicit approval of the Board of Appeals.*

Mr. Messer asked if there would be more than one person additional person working on the premises. Mr. Adams replied there are three driveways to be used on the property and would create two parking spaces for people to park off the street.

7. *The home occupation may utilize:*

a. *Not more than twenty (20%) percent of the dwelling unit floor area, provided that for the purposes of this calculation, unfinished basement and attic space are not included.*

Mr. Messer stated his calculations reflect there is adequate space and is less than 20% of the floor area.

b. *Unfinished attic and basement spaces.*

Mr. Messer stated this clause was irrelevant to the Application

c. *One accessory structure. The floor area utilized in the accessory structure shall not be permitted in a single family dwelling in which there is an accessory apartment.*

Mr. Messer asked if the business was in an accessory apartment. Mr. Gilliam responded it is in the principle structure so this is irrelevant.

8. *Except in the Free Enterprise and Farm and Forest Zones, a home occupation shall not be permitted in a single family dwelling in which there is an accessory apartment.*

The property is in the Free Enterprise zone.

9. *Only one (1) home occupation shall be permitted per dwelling unit.*

This is not applicable.

Mr. Messer instructed the Board to following Article:

Article 9.2.H. Conditional Uses

1. *Conditional uses subject to Board of Appeals review under Article 4 may be approved by the Board of Appeals after considering the characteristics and location of the proposed use and of other properties in the surrounding neighborhood, provided that the petitioner shall submit to the Board of Appeals statements in writing, which may be*

accompanied by diagrams or photographs which shall become part of the record of such petitions, demonstrating that the proposed use:

- a. Will meet the definition and specific requirements set forth in this Ordinance for such particular use;*
- b. Will not have a significant detrimental effect on the use and peaceful enjoyment of abutting property as a result of noise, vibrations, fumes, odor, dust, light, glare or other cause;*
- c. Will not have a significant adverse effect on adjacent or nearby property values;*
- d. Will not result in significant hazards to pedestrian or vehicular traffic or significant traffic congestion;*
- e. Will not result in significant fire danger; and*

Mr. Perry asked if the Applicant would have to get a building permit. Mr. Gilliam responded they would have to get a building permit if there were any renovations necessary.

- f. Will not result in significant flood hazards or flood damage, drainage problems, ground or surface water contamination, or soil erosion.*

Mr. Messer stated there were no issues with this requirement.

2. In addition, when the proposed use is to be located in the Shoreland Zone or Resource Protection Zone, the Board of Appeals shall make a positive finding that the proposed use will comply with all the standards established in Article 10.10.B.1.a-h of this Ordinance.

Mr. Messer noted the property is not in the Shoreland or Resource Protection Zones.

Mr. Perry made a motion to approve the Application for home occupation as described in the Application and accompanying letter. Mr. Cohen seconded the motion and the vote was unanimous.

Mr. Messer will prepare a Findings of Fact for the Applicant to record in the Land Records.

Other Business:

Mr. Messer informed the Board his term expires in July and he will not be renewing his position. Mr. Gilliam explained briefly the town was considering consolidating the Zoning Board of Appeals and the Board of Assessment Review. Mr. Gilliam stated he would confirm that and let them know.

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

Submitted by: Patricia Saunders, Recording Secretary