

Zoning Board of Adjustment
424 White Mountain Highway
Milton, NH 03851
Meeting Minutes
July 23, 2015

Members in Attendance: Chairman Michael Tabory, Lue Synder, Stan Nadeau, Mike Beaulieu, Larry Brown, Also in attendance Dana Smith, Land Use Clerk

Missing Members: Alternate Bruce Woodruff

Public Attendance: William Peabody, Cheryl Peabody, Kellie Chase, Steve Mosher, Patricia Pomeroy, John Katwick, Polly Katwick, Pam Arnold, Mary Rogers, Benjamin Chase, Shannon Rogers, Janice Long, Timothy Long, Amber Marcoux, Kathleen Shea, Annie McKenzie, Kirsten Lygren, William Parker, Peg Hurd

Chairman Tabory called the meeting to order at 6:00pm

Public Comment: None

Case# 2015-5: Kellie Chase and Patricia Pomeroy request for an Appeal from an Administrative Decision from Article III, Section 3.5, retail sales and services. Site located at Map 22 Lot 28, 1241 White Mountain Highway, Milton NH in the Low Density Residency Zone.

Kellie Chase and Patricia Pomeroy were present to represent themselves in the case of the administrative appeal from the cease and desist order in response to Larry Brown's complaint filed on May 29, 2015.

M. Tabory asked L. Brown to recuse himself from acting as voting member of the board since he was involved with the case per RSA 673:14. L. Brown stepped down.

M. Tabory read into the record the cease and desist sent by the Code Enforcement Officer Brian Boyers on June 16, 2015. M. Tabory explained to the public the process that the meeting would follow while hearing the case.

M. Tabory gave K. Chase and P. Pomeroy the option to table the meeting in order to have a full five person voting board. K. Chase and P. Pomeroy denied and requested to move forward tonight.

K. Chase presented her case to the board. P. Pomeroy has lived on Plumers Ridge since 1963, in 1973 P. Pomeroy had a beauty business out of her home and retired after 26 years in 1999. K. Chase's father had a junk shop out of his home in 1999, he passed away in 2003 and the shop was taken over by K. Chase and P. Pomeroy making it into a primitive shop in 2004. The store was open weekends, seasonally, September- December, some years they would only be open for big sales because of work, recently the business was doing well and K. Chase left her job to run the store full time seasonally weekends, for 10 hours a week, Saturday's and Sunday's. She knows now that she is in a LDR, but assumed that since the house has a history of businesses that they did not have an issue. Her question for the board is why now. Wanted to point out that the business does have a Facebook page with over 1,200 followers, almost every week she posts 'come to Pat's Prims, stop at McKenzie's to get cider donuts' she tries to work together with neighbors. In the past week she kept a list of people who came to the store and found that about 80% are from out of town. Thinks that they are doing good things for the community, for McKenzie's and the Farm Museum.

Code Enforcement Officer's Comment: CEO Brian Boyers, the recording clerk D. Smith was informed that CEO Brian Boyers was unable to attend due to personal reasons.

K. Chase wants the board to know that they make 90% of their inventory.

Public Comment:

Many members of the community came to the meeting and spoke in support of Pat's Prims business being a positive element of the town of Milton.

Janice Long, asked if we have a grandfathered clause in this town.

M. Tabory responded that zoning came into effect in 1989 anything in place prior to that would be grandfathered.

J. Long asked if then Pat's previous business would be grandfathered.

M. Tabory said it would come down to if there was a closure or lapse of business and if so how long.

P. Pomeroy stated that she retired in 1999 and her husband at the time was selling from his own store in the house, but then passed away in 2003 and the Primitive business was started in 2004.

Peg Hurd, questioned the time frame between when the husband passed away in 2003 and when the business started up again in 2004.

P. Pomeroy responded that the husband died in April 2003 and they were continuing to sell to clean out the junk store.

Annie McKenzie commented that the town's zoning should be looked because if we are going to encourage good clean businesses they should be on a good clean road.

John Katwick, stated that he researched grandfathered properties and found nothing on record of any retail business in an LDR being grandfathered. J. Katwick presented research he did on LDR to the board.

Recommends the zoning be revised at the next voting.

Kathleen Shea of the NH Farm Museum, thinks Pat's Prims is a fine neighbor has no problem with their business and feels it complements their business.

M. Tabory read into the record the principal uses not allowed in a LDR from the Milton Zoning Ordinance.

Larry Brown, expressed that zoning is for the protection of the land. Feels that the problem is that a retail sales variance will travel with the land, therefor if the property is sold any retail store can replace it in that location. Feels it's necessary to uphold zoning ordinances to preserve the history.

Kirsten Lygren, questioned why there is not a warning system to let people know they are breaking the laws or ordinances.

M. Tabory explained that once the CEO receives an official complaint, the CEO must follow the rules to go forward with dealing with the complaint.

L. Brown, emphasized that zoning is for the protection of the land.

Close public comment.

Board Comments:

S. Nadeau was not here when the ordinances put into effect, but believes that they had a bigger vision of businesses they wanted to eliminate, does not feel that the people voted to not have this type of home business. Feels that the property has a history of retail sales prior to the ordinances and has a history in Milton.

L. Synder feels that the town has changed and feels that the ordinances need to change as lifestyles change. Said she does not think that this business is hazardous and that it is keeping Milton alive with the ebb and flow of a new changing life that goes along with the country, bringing people out of the city and bringing people together.

M. Tabory asked if P. Pomeroy lived in the house and if she makes the things that they sell.

P. Pomeroy said she does still live in the house and they make 90% of their inventory, the candles they do buy but they are also homemade, most of the stuff is from beside the road or yard sales that they fix up and sell.

M. Tabory read the definition of home occupation into the record. He stated he thinks that her business is artistic, she lives there, and does not think it changes the character of the neighborhood. This in his opinion is not a sales and service, if they moved out the business would leave with the owners, if the next person wants to live there and create and sell their product that would fall under the home occupation.

M. Beaulieu agrees with L. Brown that zoning is for the protection of the land, and the CEO was just doing his job. Agrees with all the statements made.

S. Nadeau motions to honor appeal of Mrs. Pomeroy. Motion seconded by M. Beaulieu. All in favor, motion **Granted.**

M. Tabory, the intent of the final decision is that we believe that it existed as a home occupation and that business can continue as it has and that there is no violation of zoning as it is a home occupation.

M. Tabory addressed the audience that if the public would like the zoning to change it is something to be brought to the Planning Board, the ZBA only upholds the ordinance.

Chairman Tabory called a short recess at 7:20 pm and called the meeting back to order at 7:27 pm.

L. Brown was brought back to the board as voting member again.

Approval of Minutes: June 25, 2015 Minutes, on page two S. Nadeau's comment should read 'was not unusual' rather than 'was unusual'. S. Nadeau makes motion to accept minutes with corrections, L. Synder seconded the motion. 2 obtained and 3 in favor motion passed.

Other business:

D. Smith mentioned that Robin Weeks of the Fire Department authenticated the letter in question in the June 25, 2015 minutes from Case #2015-4 and the letter has been added to their file.

Budget, the board discussed the budget for 2016. Discussion about if they wanted to add more money for their postage. M. Beaulieu feels that the board should not increase the postage. S. Nadeau motion to keep the 2016 budget the same as the 2015 budget, M. Beaulieu seconds. All in favor, Motion passed.

S. Nadeau motion to adjourn. Motion seconded by M. Tabory. All in favor, meeting adjourned at 7:37pm.

Dana Smith
Recording Clerk