

Town of Granby
Zoning Code Review Committee
Meeting Notes – October 21, 2020

A meeting was held via “ZOOM” remote meetings on Wednesday December 2, 2020 at 5:00 pm with the following members and professionals present:

John Snow Jr.
David Crockford
Tina Sawyer - absent
Loretta Waldron - absent
Lisa Somers
Lynn Lyons - absent
Christine Bassett
Jamie Lynn Sutphen - attorney
Howard Brodsky - planner
Doug Miller – engineer

Also Present: no one.

Completion of Home Occupations; Next Project: Special Use Permit and Site Plan Review -

The consultants started the meeting with a discussion of the next time frame to work within because of the upcoming Thanksgiving Holiday. The home occupations draft is near completion, and after tonight’s discussion the consultants speculated that they would be able to make any necessary changes, and then provide a final draft for the next committee meeting. The proposed Amendment could then be presented to the Planning Board for an advisory opinion and the Town Board for adoption (after 239Review, SEQR and Public Hearing). Planner Howard Brodsky commented that he thought it was a good time to address some background projects that are non-policy, but important because they build the foundation elements of the Zoning Ordinance. Updated provisions to guide and assist the procedural reviews of Special Use Permit and Site Plan Review will be addressed next.

Next Project: Mining Regulations -

Committee members agreed to begin the support project of Special Use Permit and Site Plan Review procedures. John Snow expressed the need to address and update regulations for soil and gravel mining as well. He informed the group that an existing mine located on Johnny Cake Road had applied to the DEC for a permit to extend the operations into the adjoining property. The Town recently received a letter from the DEC for comments as part of the DEC review procedure, and A letter w. Although the Town has not yet received an application, it is required by the Ordinance to receive special use permit approval from the planning board for any mining activity. It is imperative to establish both - mining regulations and procedures for the special use permit/site plan review in order to properly review any new applications that the Boards will begin addressing in light of the pending expiration of the Moratorium. The consultants acknowledged the fact that mining has been a high priority issue that several members of the Committee has voiced in every discussion regarding projects to be tackled next; in fact, the former Mining Commission membership was absorbed into this Committee. Member Christine Bassett commented that the former Mining Commission performed a lot of research with analysis of other Town’s regulations and established a listing of areas of concerns with commonly used requirements which could assist the committee’s process. The consultants were equally concerned with the time crunch to get key components done properly and were willing to work on both simultaneously once the home occupations draft is finalized. John Snow stated that extending the current moratorium was not an option because the County had said that they would not recommend approval for additional extensions in their 239Review Determination. Instead, the Committee decided to request that the Town Board adopt a 6-month moratorium on only mining applications, which would allow the committee ample time to draft new regulations.

Next Meeting Scheduled 12/2/20 –

After tonight's discussion to wrap up the home occupations draft, there is a lot of work for the consultants to complete (home occupations final, draft new framework legislation for two sections of the Ordinance – Special use permit and site plan review, start mining) before the next Committee meeting in November. It was decided to skip November and meet in early December, which gives more time to draft two sections that will require little input from the Committee. Scheduling the meeting on December 2nd also allows any final edits before submission to the Town Board.

HOME OCCUPATIONS

At the last meeting it was decided to pause the committee discussion and get some input from other departments of the Town. The Committee received comments from both Code Enforcement Officers, the Planning Board, and the Clerk for ZBA and Planning. The consultants supplied the committee members with versions of these responses with additional comments, which began the meetings discussion as follows:

1.) Generalizations:

- a.) *Too Strict?* -The consultants had asked for input regarding the strictness of the proposed regulations – whether they are too strict or not strict enough. The responses received made the impression that the numerical values proposed for the various categories aren't an issue but that what the individual zoning districts allow is.
- b.) *Informal Reference* - The consultants found that many of the comments could be addressed by the creation of a second document that would not be official (not Law), but would be advisory in nature for the Town's departments to use as a reference tool. A Supplemental Guidance Document that could provide examples of home occupations for each of the levels, a separate listing of category provisions for each level – information that would be too cumbersome and problematic to include in the actual draft legislation.
- c.) *Operating Permits* - Another area that was mentioned by each department was usage of Operating Permits, which the consultants found no mention of within the Town's Ordinance. John Snow stated that the Town Board initiated (by motion) a plan to require Operating Permits in 2011, but it was quickly abandoned because of improper implementation – some businesses were required while others were not. He added that there had been discussion by the Town Board to begin the requirement in 2020 but Covid hit and plans were waylaid. The thought behind it is that requiring Operating Permits initiates fire inspections which allows the CEO access to premises and can ensure that stipulations of approved permits are being followed. The consultants requested copies of any information regarding Operating Permits for review.

The Committee reviewed the comment pages received as well as the consultants input to edit the draft regulations.

2.) Planning Board Comments:

- a.) *Accessory Structures* - Much discussion of the planning board centered on allowing accessory structures for all levels of home occupation use. The consultants thought that perhaps some confusion exists between what accessory use and accessory structure is. The home occupation is an accessory use which is to be conducted within the home, as the name implies, without impact to the neighborhood. Usage of an accessory structure is allowed for the level of home occupation that has elevated thresholds indicating spillover impacts can occur. Home occupations are not intended to be businesses. Member David Crockford responded that the concern by the planning board was that a home that doesn't have an attached garage is at a disadvantage, perceived to be an unfair restriction on the owner's usage of their property. John Snow responded that he hadn't understood the planning boards confusion with the proposed regulations; as the home occupation needs more space then it moves up to the next level, and if necessary, subdivides to create a business

rather than a home occupation. David Crockford stated that many properties currently exist that have large home occupations, many not formally approved but have been operating for many years - how do you make them comply with these new regulations. The consultants responded that these regulations would apply to new applications going forward, and that current activity would be grandfathered so to speak, and considered per-existing and non-conforming uses. John Snow didn't think that there were many properties currently considered as commercial or business by the Town Assessor; he will ask the assessor to compile a spreadsheet of those properties. Attorney Jamie Sutphen reiterated that existing legal activities would be grandfathered or considered legal but unable to change or expand. The other alternative is to come into compliance with the new code. She added that the intention is to protect the residential neighborhoods and retain the principal use of those properties as residential. Possible additional verbiage for draft to be that any legally established home occupation prior to the date of adoption hereof will be considered a non-conforming use, which allows continuance but no expansion.

- b.) *Confusing Format* - The boards comments regarding confusion because of the complexity of the levels was probably due more to initial read through of new format than the levels being complicated. Once the board begins to utilize the new section as it is applied to real applications the intention will be realized, in that the categories represent potential impacts, and the levels have specific numerical values to direct the proper review and use to regulate activity and protect the residential character. The consultants were not in favor of adding lists of example occupations for the different levels to the regulation because it becomes cumbersome; they were in favor however of creating an informal document with lists that would be used as reference by departments only. David Crockford stated that a member had proposed grouping the provisions for basic as one list and all of the provisions for minor as another list, as well as a chart that supplies the same information. Howard Brodsky stated that you run the risk of having a conflict between the information when representing the same provisions in various ways in the code. Jamie Sutphen added that the consultants had debated the various formats and all agreed that the current version was clear and that rereading it several times makes it clearer. John Snow was in agreement that it was clear and that only one format was needed, as it stands now the new draft will add four pages to the Ordinance and replaces only a small paragraph.
- c.) *Primary Access County/State Roads* - The concern by all was that this provision would be too restrictive. Howard Brodsky explained that the idea was to provide a strategy to direct the placement of larger home occupations in areas that can handle the increased impacts of traffic, deliveries and associated noise. The members were in agreement to remove the map and provision from the text for major home occupations; Chistine Bassett commented that the criteria are so clear that they should be allowed anywhere, as long as they conform to the regulations there shouldn't be any impacts. John Snow added that he thought the map would be an issue at a public hearing for both residents and Town Board members. Proper implementation and enforcement will be key going forward.

3.) PB/ZBA Clerk Lisa Somers Comments:

- a.) *Number Allowed* - The consultants added new text to clarify the question of whether more than one occupation could exist on a single property. "One or more home occupations within one site that individually or cumulatively exceed thresholds shall make the entire site subject to the next applicable, most restrictive category of home occupation."
- b.) *Special Permit Transferable* - The consultants commented that they should not be transferable, and that a new owner would need to apply and establish their own home occupation. They added that the Town could impose reasonable time limits if they so choose. The text for either would need to be explicit.

- c.) *Single Principal Use* – The consultants did not think it was necessary to reiterate principal use regulation, either to qualify or alter it. Being repetitive of other sections of the zoning text is unnecessary. The existence of current businesses that do not fit into the framework of the proposed regulations, and are more akin to a second principal use like auto repair is, is irrelevant – what’s there, is there. The consultants were more concerned with the Town’s comfort level with upholding the non-conformities section of the Ordinance, and added additional text to support the transition of non-conformities to legal use with prescribed time limits. The Committee members were not in favor of the additional text, they didn’t see a problem with letting what is established continue. John Snow added that the Town has a history of upholding the non-conformities section because people within the CIT can’t build a deck or garage on their residentially used property without obtaining a Use Variance first. David Crockford added that the provision to allow only one principal use per lot was in response to preventing multiple mobile homes on a single parcel and may not have been thought through completely.
 - d.) *Provisions subject to ZBA Variances* – The criteria can be subject to variance determinations through the ZBA but only for numbers associated with bulk requirements, for example the time a home occupation can be open. Details that are inherent of the use or part of the definition such as the square footage requirement cannot be altered by a ZBA request. Another example would be that an adult use cannot be located within 750-feet of a school, that can not be changed by a ZBA decision.
- 4.) CEO Comments:
- a.) *Listing & Operating Permits* - Already discussed, a listing of example businesses would be too long and there is no definition for operating permit within the code. An unofficial listing could be developed to guide the CEO’s review.
 - b.) *Within Principle Dwelling* – The Committee has developed provisions to allow usage of accessory structures for home occupation which is also supported by the planning board. Two of the three levels require review by the planning board. It will be incumbent upon the planning board to ask questions and determine the extent of the proposed use to generate conditions and stipulations for each application that are enforceable by the CEO. John Snow added that the regulations give the CEO real parameters that provide grounds necessary for violation actions, and the ZBA can interpret the decision if a resident disagrees.
 - c.) *Noise, odor, vibration, smoke* - CEO concern regarding the subjective nature of the non-tangible impacts prompted additional text that “shall be no greater than what is customary” be added. The consultants stated that the CEO can make a judgement, or interpretation, of what is customary. Christine Bassett added that although it is subjective, if the CEO were to ask 3 or 4 of the neighbors if it were customary, he would have a basis for further investigation.
- 5.) CIT District: Attorney Jamie Sutphen asked the Committee if they wanted to allow home occupations in the CIT District or not? The members were in agreement to allow home occupations in the residences of the CIT, a district that they also agree is too big. Additional Language will be added to the Non-conformities section of the Ordinance – “Notwithstanding anything to the contrary, in this code provided the primary use of a property in the CIT zone is residential, this section shall apply” or simply as “A non-conforming residence may have a home occupation.”.

IN CONCLUSION, the consultants and members were encouraged by the input received from the Town’s departments and were also satisfied with the decisions made tonight to address changes needed to finalize the proposed draft. The Committee heard all of the comments made and discussed them as a committee, as well as separate discussion by the consultants to draft responses. The next step is to send a final version to the planning board for an

advisory opinion in December, allowing the Town Board to process the proposed amendment through 239review, SEQR and Public Hearing – with possible adoption in January.

The next meeting is scheduled via remote “ZOOM” meetings for **Wednesday, December 2, 2020** between **5:00 & 7:00 pm.** Howard Brodsky to send link information for ZOOM meeting.

Consultants Tasks:

- Home Occupations –Finalize proposal text.
- Site Plan & SUP’s – Draft procedures and policies.
- Draft informal reference tool – Supplemental Guidance Document.
- Initiate Mining Revision project.

Members Tasks:

- John Snow to direct Assessor to provide spreadsheet of commercial and business properties outside of the CIT District.
- Lisa Somers to research Operating Permits in the Town.
- Town Board discussion/action to impose 6-month moratorium for mining applications.
- Lisa Somers – retrieve Mining Commission review materials.

Meeting ended at 7:00 pm.

Respectfully submitted,

Lisa Somers, Zoning Code Review Committee Clerk