

TOWN OF CONCORD PLANNING BOARD  
Town Hall

July 2, 2024  
7:00 p.m.

ITEM # 1:

The meeting was called to order by Planning Board Chairman, Joseph Edbauer, at 6:50 p.m.

ITEM #2:     Roll Call

Present:

Joseph Edbauer, Chairman  
Bruce Luno  
James Jozwiak  
Ray Hilliker  
Michael Cochran  
David Dains

Also Present:

Darlene Schweikert  
Scott Zelig  
Jacob Zelig

Not Present:

Julie Zybert  
Clyde M. Drake, Town Council Liaison  
Thomas Roberts, CEO

ITEM #3:     Citizen Participation

a) Jacob Zelig addressed the Board. Mr. Zelig currently runs a business as a federal firearms license and is the owner of JT Customs and Firearms. He focuses mainly on the custom work of firearms such as laser engraving and Cerakote application. Right now, he is operating his business at his home in the Town of Boston and plans to move the business to Trevett Road in about a year. He will also be transferring his FFL License to the new address. He would like to make sure that he has the Town's direction to proceed. He does a lot of custom work, Cerakote. Most of the business takes place online so there is little foot traffic to the location. Cerakote is a coating process; a thin ceramic coating. He uses a spray booth with filters and disposes of the acetone properly so there are no environmental impacts. Mr. Zelig currently has a Home Occupation Permit issued from the Town of Boston. Chairman Edbauer noted that the gray area on the property is zoned R-Ag and Mr. Zelig is manufacturing; which is not allowed in that R-Ag District. Mr. Zelig advised that cerakoting is not considered manufacturing. Chairman Edbauer said that it technically is, because it is a coating; someone else could come in and say that the Town allowed this business and ask for a full powder coating line. That's his concern. The Town set precedence. Chairman Edbauer noted that the property is not zoned commercial. R-Ag does allow some non-environmental impact businesses. Mr. Zelig asked what he could do? J. Jozwiak questioned that if Mr. Zelig just did the coating, and that was his only sole manufacturing purpose, could it be a Special Use Permit? With that stipulation for just that? Mr. Zelig wondered if he could

get two separate permits: one for the FFL license and the other for cerakoting. The members do not have a problem with a Home Occupation for the FFL license; there are other Home Occupations in the Town for that. Mr. Zelig noted that that is the majority of what he does; if the coating doesn't fly, then he'll figure that out down the road. Scott Zelig questioned if there would be a potential for the cerakoting to be approved; Chairman Edbauer felt that it was manufacturing and not allowed. Chairman Edbauer asked the members for their input. The Home Occupation for the firearms license will not be problem. Secretary Schweikert advised that she had a meeting with CEO Roberts and Jacob Zelig a few days ago. The business is really contained in his garage; in a small area. It is not a big manufacturing plant. He uses a compressor to spray on the coating; it's not like a manufacturing plant. Jacob is the owner and basically the sole employee; his father Scott may help once in a while. J. Jozwiak noted that it is a small, little thing that Mr. Zelig is doing. Chairman Edbauer asked about discharging of firearms as was discussed at the May 9, 2024 Town Board Meeting where neighbors had complained; that has nothing to do with his FFL License and the cerakoting. Mr. Zelig shoots personally on the property; he shoots in competitions. He does not have to shoot to do the business. Shooting is not part of his business; it is personally. Scott Zelig noted that at the beginning of Trevett Road which is probably the Town of Boston, there is a manufacturing business there. That is not in the Town of Concord. Scott Zelig just wanted to note that it is not uncharacteristic of the neighboring area. He continued that the area used is no larger than the tables arranged for the Planning Board members. There's a bench, a small coating booth and an oven; and a compressor. Mr. Zelig understands Chairman Edbauer's concern about manufacturing; heavy or light. M. Cochran thinks that the Town Board and Town Attorney should define "manufacturing". M. Cochran noted that if it truly is manufacturing, it is minor but if the Code says no, then no. Mr. Zelig noted that he'd say it is more like gunsmithing. Chairman Edbauer will be meeting with the Town Attorney on Monday regarding other matters and will ask the Town Attorney for his input and a definition of "manufacturing". Chairman Edbauer wants to make sure that the Planning Board is doing this correctly; he appreciates Mr. Zelig coming in to discuss this with the Board. J. Jozwiak said that the Board will be under a microscope because of the shooting complaints voiced by the neighbors at the Town Board meeting; even though the business is totally separate from that personal shooting. There was discussion about other residences in the area that are conducting businesses on their properties; Jacob Zelig said he doesn't want to get into that; he just wants to try to find a way to move forward. Chairman Edbauer will ask the Town Attorney for some input. When Mr. Zelig is ready to do transfer the FFL License to the Town of Concord, he can submit a Home Occupation permit application for that to the Planning Board. R. Hilliker thinks that one of the problems here is that this is a slippery slope; if Mr. Zelig is approved for what he is doing now and then his business gets bigger; that leaves the Town in a bad spot because you'd be grandfathered in on this business but you may be doing something that you should not be doing. J. Jozwiak noted that this has happened in the past where a resident would say that their business was "this" and it gets bigger and is now longer what was approved. Mr. Zelig said that he came to the Town to make sure he is doing this correctly. A Home Occupation permit allows for businesses to be conducted in an accessory building; it does not have to be in the residence. Scott Zelig said that it is an attached garage. Chairman Edbauer will reach

out to Mr. Zelig after the meeting with the Town Attorney. Scott Zelig provided a follow up to the May 9<sup>th</sup> meeting. The neighbors wanted to get together for a meeting and that meeting never happened. Scott and Jacob did some decibel readings. Reading at 1 meter from the gun barrel with multiple different firearms and then took a reading at the middle of the street. At the gun barrel, it was 127 db and at the middle of the road, it was 60 db. Normal conversation is 55 db; chainsaws run 95-105 db. There is a significant drop in decibel level before it reaches the neighboring properties. Jacob Zelig noted that this is all separate from his reason for being at the meeting tonight; he would like to move forward without taking away his hobby or his rights. Jacob & Scott Zelig thanked the Board and left the meeting at 7:10 p.m.

The members had some discussion about shooting and living close to neighbors who shoot and even the Field & Stream. J. Jozwiak noted that in his opinion, if Mr. Zelig did this where it was contained in his garage to put a coating on; what is it if you buy this part of a gun, then buy a scope and buy a different stock and put it all together and then sell. How many people do Etsy or eBay? They go buy a dresser, take it apart, then refinish, paint it, put flowers on it and they sell it. Whatever he would be doing would have to be noted: the size of the garage, everything attached. There are so many people who do this. M. Cochran noted that the better point would be to drop the gun part of it, and say talk about furniture: you're taking it apart and putting it back together to sell it. Chairman Edbauer noted that he understands where J. Jozwiak and M. Cochran are coming from with their comments, but Mr. Zelig applying for a permit and the Town would be sanctioning it. J. Jozwiak said that if Mr. Zelig is just putting a coating on something; most of work is gun, but he will do other items. R. Hilliker asked if there would be a sign up and a store front. Secretary Schweikert noted that in her conversation with Mr. Zelig he said that there would be no store front; most of his business is online with no foot traffic to the location. B. Luno said that Mr. Zelig would probably be taking the gun out to sight it in after he's done coating it, before he sells it to the person. J. Jozwiak wasn't sure that Mr. Zelig would be doing that since from Mr. Zelig's website, it would appear that he has a sandblasting machine and etches in a design and then he puts a coating on it. Secretary Schweikert advised that she had emailed the Town of Boston Code Enforcement Officer about Mr. Zelig's Home Occupation Permit to see what their file contained and if there were any complaints, but has not yet received a response. R. Hilliker asked if this would be spot zoning. Secretary Schweikert advised that the King property at that corner is zoned Commercial as well as the property at 12300 Springville Boston Road where a prior owner had a cabinet making business.

ITEM #4:      Approval of Minutes

a) June 4, 2024 – J. Jozwiak made the motion, seconded by B. Luno, to approve the Minutes as presented. All in favor. Carried.

ITEM #5: Code Update

Secretary Schweikert noted that Chairman Edbauer, Council Member Drake and CEO Roberts will be having a meeting with Town Attorney Attea and Deputy Town Attorney Rautenstrauch to review some of the Code questions that the members have had during the Code Update process. This will include the Zoning Chapter, definition of manufacturing, definition of campground, penalty/jail time (or how CEO would proceed with the Discovery process).

Members reviewed the Zoning districts; consider combining all the C districts (C1, C2, CT, CR) into one zoning district. This will be discussed with the Town Attorney.

Open items on Legal Analysis:

Chapter 59: Unsafe Buildings-await Town Attorney input.

Chapter 72: Fire Prevention-members will review the model legislation provided by General Code for next meeting. Members believe the Town should adopt this new legislation.

Chapter 93 & Chapter 94: Mobile Homes/Manufactured Homes-Chairman Edbauer will work on this for next meeting. The members confirmed that double-wides should only be allowed in Mobile Home Parks. R. Hilliker noted that there is a designation stamped on a manufactured home stating that it is a manufactured home based on HUD standards which could have the thin walls and metal frame. A modular has a stick-built structure. The members agree that double-wides should be restricted to just Mobile Home Parks, not allowed in the R-Ag zones. R. Hilliker noted that as soon as you switch to modular, then it is a regular built home. Chairman Edbauer asked about Mobile Homes; penalties for not renewing the Mobile Home Park permit. Change renewal to June. Manufactured homes (single wide and double wides) per HUD's definition of mobile homes are only allowed in Mobile Home Parks.

Chapter 103: Soliciting. M. Cochran reviewed this section and believes it should remain as written. The members agreed.

Chapter 114 & Chapter 147 Sewer/Water. MDA provided their review and there are notes from MDA that need review. General Code did note that all the old footnotes will remain in our Code as history. It may be that MDA should be finalizing their open notes/questions as the experts in water/sewer. The members will look at these chapters and see if the members could answer any of the notes. Possibly note that the Appendix is on file at the Town Clerk's Office/CEO Office and not a part of the Code.

Chapter 157: Drug & Alcohol & Chapter 190: Personnel Policies. These could be addressed in the Employee Manual and taken out of the Town Code.

Chapter 184: Grandfathered lots. This will be discussed with Town Attorney Attea. The term grandfathered lot probably should not be used; use non-conforming lot. Chairman Edbauer believes that if the time the land was separated, if it was legal to be that size, then the owner should be able to build a house on it. Did the Code ever say it was an acre? B. Luno said yes. The members had been discussing changing the minimum lot size from 1.5 to 3. J. Jozwiak noted that as long as set backs were met and could meet the Erie County Health Department standards for distance for water/sewer; they could build. R. Hilliker noted that there are all different designers designing septic systems now; some smaller ones and some do bigger ones. All based on the specifications of the home being built. There are now variations that can be used; instead of the one design that had been used in the past. Chairman Edbauer said he had spoken with the Health Department who said that 3 acre lots are optimal trying to fit on the well/sewer on the parcel. M. Cochran thinks that as long as non-conforming lots can meet existing setbacks and Erie County Health Department regulations, the owner should be able to build. M. Cochran will work on language for non-conforming lots. Chairman Edbauer brought to the members' attention that R-1 in our Code is 1 acre minimum. Chairman Edbauer thinks that minimum lot size should be 3 acres. B. Luno questioned how many people will physically take care of larger acre parcels and make it look nice; Chairman Edbauer noted that Concord is rural and some is meant to be untouched.

R. Hilliker asked if the other members had any interest in changing the Solar law to omit solar in prime farmland and farmland of statewide significance. Chairman Edbauer would agree with that. Secretary Schweikert advised that the Town Board is now considering a moratorium on Battery Energy Storage Systems; and already has a moratorium on Wind Energy so that the Town laws can be reviewed. The Town is in contact with Drew Reilly, Wendel Companies, to review the Solar Law. Right now, our Solar Law says that a project can't be on no more than 50% of that land. R. Hilliker thinks that it has to be tighter than that. In the current RIC project, because of the wetlands on the property, they are using the best farmland and leaving the rest. Secretary Schweikert noted that Supervisor Drozd had discussed this with Ellicottville. Ellicottville has something in their Zoning Laws that their ridge views cannot be changed; and certain areas were detailed. This is in their Zoning not their Solar law. J. Jozwiak noted that he saw in some city a parking lot, all the cars parked in rows and there were poles that had solar panels on a 45-degree angle. It was like a carport and then the cars were covered as well. Secretary Schweikert related that in San Diego there are panels on their governmental building rooftops like their water treatment facilities. J. Jozwiak also saw solar panels with adhesive on buildings and they make designs on the buildings. B. Luno would like the Town Board to put a moratorium on solar projects now so that the Town can review their Solar Law again. Secretary Schweikert noted that in a conversation with MDA Consulting Engineers, they mentioned that one of the steps the Planning Board could do in the future is to have the Town Board refer the matter to the Town Engineer for an initial review prior to sending the project to SEQR. This will allow the Town

Engineer to do a preliminary report and provide the Planning Board with more feedback before any SEQR is started. This should be considered and possibly added to the Solar law. The Town Board referred the RIC Energy project to MDA Consulting Engineers to do SEQR Parts II and III and their Engineer's Report. Once MDA gets that back to the Town Board, another Public Hearing will be scheduled by the Town Board. M. Cochran noted that our current law notes that the Town will give deference to those sites that are NYS brownfield sites and sites that are non-agricultural in nature. The Town values its agricultural land and the farming that takes place so it does state farmland. The members discussed Special Use Permit requirements and whether the Special Use Permit can be transferred to a new owner or if the Town could put a restriction on any Special Use Permit that the Permit cannot be transferred to a new owner. This can be discussed at the Town Attorney meeting.

Code Update will continue next month.

ITEM #6: Business from the Members

1) Secretary Schweikert updated the members with regard to the DRYM Management Abbott Hill Road project. The Town received the beginning Environmental Assessment Form (EAF). The Town Board sent it to MDA Consulting Engineers to begin the SEQR process but MDA is holding off on that process until DRYM Management provides a plat plan of the proposed development.

2) Secretary Schweikert informed the members that the proposed rezoning of the Townsend Road-Springville Boston Road parcel should be ready for the August meeting. The owner is waiting for final documents from his attorney and engineer/architect. R. Hilliker noted that the owner has started excavating the land. Secretary Schweikert said that the owner doesn't yet have a permit to do anything on the parcel but he can begin excavating without a Town issued permit. The owner would like to build storage rental units if the property is approved to be rezoned. His plan is to build a storage unit for his own personal use on the lot too.

3) M. Cochran noted that he went to Still on the Hill recently and owner Mr. Burke advised that he would like to put in a zipline on his property. The members recall that parking is already a problem at the property.

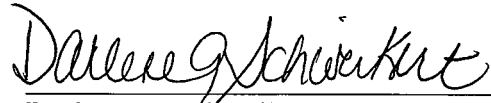
4) B. Luno advised that he has heard that more solar project applications may be coming to the Town.

5) Chairman Edbauer advised the members that the construction is starting on the vacant land on Transit Line Road.

6) M. Cochran noted that there is a house trailer at 11366 Old Glenwood Road and it appears that someone is living in it; would like CEO Roberts to go check.

ITEM #7:     Motion of Adjourn

J. Jozwiak made the motion, seconded by B. Luno, to adjourn the meeting at approximately 8:42 p.m. All in favor. Carried. The next regular meeting will be Tuesday, August 6, 2024.



---

Darlene G. Schweikert  
Planning Board Secretary