

TOWN OF CONCORD PLANNING BOARD  
Court Room

September 4, 2018  
7:00 p.m.

**ITEM # 1:**

The meeting was called to order by Planning Board Chairman Lawrence J. Kelly, Jr., at 7:00 p.m.

**ITEM #2: Roll Call**

**Present:**

Lawrence J. Kelly, Jr., Chairman  
George Donhauser  
Bruce Luno  
James Jozwiak  
Julie Zybert  
Karl R. Lux

**Also Present:**

Darlene Schweikert  
Clyde Drake, Supervisor

**Not Present:**

Joseph Edbauer

**ITEM #3: Citizen Participation**

There was no one for Citizen Participation.

**ITEM #4: Kevin Thie – 10257 Emerling Road property-Kiln firewood**

Mr. Thie had requested to be on the Agenda for tonight but was not in attendance at the meeting. Chairman Kelly drive by the property and he believes it is a business doing firewood. He urged the members to take a ride by the property. In his personal opinion, it is a commercial operation. K. Lux noted that one of his issues is that if this is what Mr. Thie is doing now, what would be his future plan; would he want to expand it and more it more commercial. Already has a kiln there without asking anyone. It makes him nervous about what the neighbors think because of the zoning. Chairman Kelly did talk to some of the neighbors. Some thought that Mr. Thie should rezone his property to Commercial but that is the issue; the Town does not want to spot zone. Chairman Kelly noted that on the day he drove by there was a lot of timber on the property; about three loads of logs. K. Lux noted that the kiln drying process takes care of all the issues about transportation from one area to another area. Mr. Thie had noted when he was at the August meeting that he complies with the DEC regulations. J. Zybert discussed the transportation issues with large trucks delivering logs on a fairly regular basis. The members at this time do not know how many logs Mr. Thie is having delivered. B. Luno noted that there are a lot of people who sell firewood at their property. J. Zybert asked if any of the neighbors have issues with the unsightliness of the property. Chairman Kelly noted that the people he talked to just said that it is a business; that's commercial. Not a farmer with a log splitter that is making firewood on the side. There is not a next door neighbor within 500 feet but he has neighbors. Chairman Kelly noted that at the August meeting, the members advised Mr. Thie that he should be looking for commercial property and Chairman Kelly still believes that. J. Jozwiak advised that one of the

problems with spot zoning is that right now Mr. Thie is doing lumber now and two years from now, he sells the property. Now the new owner may want to do something else and then the neighbors may not want that new business in the area. K. Lux noted that he is not sure how Mr. Thie cleans up the bark and where he puts it; at the last meeting there was no discussion on this and Mr. Thie is not here tonight for further discussion. K. Lux advised that his impression is that it is commercial and he is in the wrong zoning district to do it; doesn't know how it could be fixed. B. Luno noted that he thinks the thing we need to be careful about is how can the Town set the point to where people make a living just cutting/selling firewood to the size of Mr. Thie's operation. Mr. Thie has equipment on his property that the average person does not have. Where would the Town draw the line? J. Zybert questioned how much smoke as well as noise the kiln process creates. This was not discussed in August. It appears that CEO Singleton went to the property because Mr. Thie was burning the bark and this created smoke issues. The members discussed how this kiln would operate; diesel or wood? G. Donhauser thinks Mr. Thie might try to use pieces of wood scraps. There was discussion of corn drying processes. J. Zybert advised that she is concerned about the impact on the neighbors; truck traffic and smoke issues. J. Jozwiak noted this is farm area so there could be heavy truck traffic in the area already. Chairman Kelly did not recall seeing any dairy farms in the area. K. Lux advised that he thinks it is a business. If Mr. Thie could prove to the members otherwise it would be worth discussing further. B. Luno noted that until Mr. Thie comes and discusses anything more, the members cannot proceed further. If Mr. Thie continues the operation, it would be up to the CEO to follow up. B. Luno stated that he did not think it the decision of whether or not Mr. Thie is a business is up to the Planning Board; maybe it should be a Town Board decision. This would be policing and that is not a Planning Board matter. K. Lux noted that the CEO should take the right steps and then it should move forward to wherever it should go. The CEO should make a determination based on zoning. The CEO directed Mr. Thie to come to the Planning Board for review and discussion. Supervisor Drake advised the members to make their decision and if it becomes a zoning issue, Mr. Thie would have to appear before the Zoning Board of Appeals. Consensus was to not do anything further unless Mr. Thie comes back. CEO Singleton can go over there to check to see what the resident is doing. K. Lux made the motion, seconded by J. Jozwiak, to refer this matter back to the CEO for a different avenue of approach. All in favor. Carried.

**ITEM #5: Approval of Minutes**

a) August 7, 2018 – J. Jozwiak made the motion, seconded by B. Luno, to approve the Minutes as presented. All in favor. Carried.

**ITEM #6: Review Code Changes**

- Business Permit. This permit form has been in existence and a fee has been approved for it but there is no mention of the Business Permit form in our Code. There was discussion about businesses in the Town and when this permit could be used. G. Donhauser noted that there is a little wooden building on Route 240 by the road selling produce and stuff. There is no permit for the building and it is too close to the

road. B. Luno noted that people can sell produce that they grow on their property. G. Donhauser said absolutely but they need a permit for the building and it needs to be 20 feet off the right of way. Route 240 is a county road. They need to meet the setback requirements. Discussion ensued about other farmer roadside stands in the Town. K. Lux questioned the Business Permit. Would it be used for a moveable building? Would the fee be good forever? J. Zybert questioned if you need to renew every year if you move your business at the end of the season. K. Lux noted some of this should be common sense. Residents may not know there is a setback requirement or that a building permit would be required on these type sheds. Pool companies and Mark Hutchings do tell people to check with their towns for any necessary permits. Chairman Kelly questioned how the Town could get residents to realize that they would need a permit. K. Lux thinks the CEO should be policing this as he drives around the Town. J. Zybert asked if something could be added to the town's website and if adding information there would help. Discussion about the differences between the Home Occupation Permit and the Business Permit. Home Occupation permits come before the Planning Board. B. Luno noted that Home Occupations allow one employee and this could be used if a business goes beyond that. G. Donhauser noted that this Business Permit could be included as part of the Home Occupation Permit process and at that time the fee for the Business Permit could be waived. J. Zybert noted that maybe that is the difference: if you are doing it in your home, it would be the Home Occupation. If you are doing it in a purchased or rent space that is not your residence, then the Business Permit would apply. There could be a home based business that is on your property but not in the living space. J. Zybert continued that when she thinks of a Home Occupation, she thinks of some sort of business that you are running at your property that has your residence on it. The members concluded that the Business Permit could be used when a Home Occupation Permit does not apply.

- Storage Containers. Chairman Kelly and K. Lux both found a website that has a definition of "shipping containers." Shipping containers is what would be called a van body, or one that comes off a ship. Not storage containers. Chairman Kelly noted that if you were using it as shipping container where it comes to your house, load it up, and it is being shipped out; then it's a shipping container. Discussed different styles of shipping containers. Chairman Kelly advised that if you take it off the trailer and put it at your farm for storage, it is not a shipping container. It is now storage. J. Zybert questioned if any municipalities are making residents get permits for pods used for moving; J. Jozwiak does not recall a permit being required in any areas he has been working in. G. Donhauser noted that if you are building a building, that is already in the code. You are allowed a pod for one year. J. Jozwiak noted that the Town's problem is that residents are getting these shipping containers/semi-tractor trailers, cutting the wheels off and making them storage/deer camps. G. Donhauser thinks they are good thing for someone who is moving or remodeling but he thinks there should be a time limit. It could be free at first but it must be registered with the CEO or have a receipt for when you rented it; after a period of time a fee should be attached. The Code does not allow for these to become permanent. K. Lux stated that property is when someone gets one without wheels on it and takes them to their property and then empties their barn and throws it in there. How do you control this? B. Luno stated the members have to determine how long it should be allowable and then it would be up to CEO to follow up.

The Board will need to come up with some good verbiage. J. Jozwiak noted that the Village of Springville allows the tractor trailer bodies for storage; right in the Village. The Board will continue to work on verbiage.

**ITEM #7: Business from the Members**

There was no Business from the Members.

**ITEM #8: Motion of Adjourn**

J. Jozwiak made the motion, seconded by B. Luno, to adjourn the meeting at approximately 7:48 p.m. All in favor. Carried.



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Darlene G. Schweikert  
Planning Board Secretary