

**MINUTES  
CHARLESTOWN PLANNING BOARD  
MAY 3, 2011**

Members Present: Robert Frizzell (Chair); Sharon Francis (Vice-Chair); Steve Neill (Ex-Officio); Andy Jellie, Roger Thibodeau, Rosie Smith-Hull, Pat Royce

Alternates Present: Jim Jenkins, Eric Lutz

Staff Present: David Edkins – Planning & Zoning Administrator

**CALL TO ORDER & SEATING OF ALTERNATES:** Mr. Frizzell called the meeting to order at 7:00 PM. He noted that all regular members were present, hence the seating of Alternates would not be necessary.

**APPROVAL OF MINUTES OF MARCH 1, 2011:**

Mr. Jellie moved to approve the Minutes of the April 5, 2011 meeting as printed.

Mr. Thibodeau seconded the motion. With six members in favor, the Minutes were approved. Mrs. Royce abstained as she was not present at the April 5 meeting.

**ROSE BURNS (OWNER) & JOHN BURNS (APPLICANT) d/b/a COLD RIVER CYCLES – Motorsports Parts & Service Business w/ Retail Showroom in Existing Building – 26 Sullivan Street – Map 118, Lot 94 – Zones B (Business) & E (Mixed Use) –** Mr. Jellie recused himself from this matter and took a seat in the audience. Mr. Frizzell called upon Eric Lutz to sit in Mr. Jellie's place.

At Mr. Frizzell's request, Mr. Edkins briefly reviewed the minutes of the Planning Board's June 3 and June 17, 1997 meetings at which the subject property was approved for use as a pet store. Mr. Edkins noted that the adequacy of parking was the primary topic of concern during those deliberations but that the pet store was ultimately approved.

Mr. Frizzell recognized the applicant, Mr. John Burns, who in turn introduced his business partner, Mr. David Collins. Mr. Collins read a letter (see copy attached) explaining the proposed use of the property and addressing several issues that had been raised in correspondence from Fred Poisson, an abutter and Police Chief Edward Smith. Mr. Collins also presented a letter from the property owner, Rose Burns, giving her permission for him to represent her at this meeting. Mr. Collins also presented a letter from Ken Moore giving permission to use his property across the street for overflow parking. Mr. Collins also presented a copy of his state motor vehicle inspector's license.

Mr. Frizzell asked the Board for any questions or comments. Mrs. Smith-Hull asked if there were apartments in the building and Mr. Collins replied that there are two. Mr. Collins noted that the current tenants use three parking spaces. Deborah Walker, a tenant in one of the apartments, indicated that she works all day and that her parking space is empty during the hours that the business would be open.

Sharon Francis asked the Board to consider whether this is a major or minor site plan. She reviewed the definition of a major site plan as contained in the Site Plan Review Regulations and asked if there would be major events or activities at the site, noting that the application did make reference to such events. Mr. Collins replied that they have no intention of holding major events at the site other than perhaps a grand opening sale or the like. He acknowledged that there is no room on the site for major events or gatherings and that if they were to sponsor such an event it would be held at an off-site location.

In response to a question from Mr. Frizzell, Mr. Collins stated that they would not be doing a mail order business on the site. It will be an on-site retail operation. They do expect an occasional delivery of stock via UPS. Mr. Collins continued that in his experience the business is not a large traffic generator and there are many days when they only get 2-3 customers.

Roger Thibodeau questioned the dimensions of the parking area, noting that he does not see the potential for 8 parking spaces along the front of the building. He also questioned whether there is adequate depth to the parking area between the building and street to allow a parked vehicle to not interfere with traffic or the opening of doors on the building. Mr. Collins replied that full size pickup trucks park in that area every day. Oliver Leonard, the former owner of the property, stated that he never had any problem parking his full size pickup truck in the area.

Mr. Edkins pointed out that the site plan may be deceiving in that the dimensions were taken from the Tax Map which shows almost all town roads as having a 50-foot right-of-way. In actuality, Sullivan Street has only a 33-foot ROW so there is more room between the building and the road that it appears on the site plan.

Mrs. Francis suggested that the property should be surveyed to get accurate dimensions. Mr. Collins replied that since this is just a change of use in an existing building, he did not feel that requiring a formal survey was warranted. Mr. Leonard added that he was not required to get a survey when he got his approval for the pet store. Mrs. Francis responded that the regulations have changed since that time.

Mrs. Royce asked for more information on the ramp that would be used to access the service door on the west side of the building. Mr. Collins replied that it would just be a plank that they could pull out when they needed to push a motorcycle into the service area but that could be immediately removed when not needed.

Mr. Frizzell opened the floor to questions and comments from abutters and the public.

Oliver Leonard explained that when he opened the pet store at this property there was an agreement with the Planning Board that he would be allowed to operate for 6 months and if any problems developed he would come back before the Board to re-visit the issue. There were never any problems reported.

Robert Meier addressed the Board in support of the application stating that he felt that the proposed shop would generate less traffic than the pet store. He also noted that the business would be largely seasonal with very little traffic in the colder months.

Ken Moore reiterated his offer that he could accommodate any excess parking need on his land across the street.

Norm Cobb addressed the Board on behalf of the Congregational Church stating that the church has 3 areas of concern. One of these was the potential for noise during Sunday church services. Another is noise during a mid week funeral or other service. Finally they are concerned about the potential for uncontrolled parking on the church's land across the street. Mr. Collins replied that he would be willing to post a sign telling customers not to park on the church property. He is willing to consider any reasonable measure to keep his neighbors happy. It was noted that the business would not be open on Sunday. John Burns added that they also plan to post a sign warning customers not to over-rev their engines out of respect for the neighbors.

Albert St. Pierre of North Charlestown spoke in support of the proposed business. He noted that it would be nice to have a closer location to have his motorcycle serviced. He added that when Mr. Collins ran a similar business in Alstead, one could barely tell that they were there.

Sharon Francis noted that the Site Plan Regulations, which were updated after Mr. Leonard got approval for the pet store, require that the plan demonstrate adequate space for snow storage. She then asked Mr. Edkins if the apartment units in the building had ever gotten Planning Board approval. Mr. Edkins replied that Planning Board approval is not required for two dwelling units. He added that the Site Plan Regulations require 2 parking spaces per unit for multi-family dwellings but since there is no Planning Board regulation of two units this may not apply. Obviously all dwellings need some parking but there is no specific standard for one and two unit dwellings.

In response to a question from Mr. Frizzell, Mr. Leonard stated that when he owned the building snow was pushed across the road onto Mr. Moore's property and to the east side of the building. He also plowed Gayla Aiken's driveway and some snow was pushed to the rear of the building on her property. Mr. Burns stated the he also plowed Ms. Aiken's driveway this past winter and there was never any problem with snow storage, even though this was one of the snowiest winters in many years.

In response to a question from Mr. Jenkins, Mr. Collins stated that his intent is to emphasize parts sales over service work. He expects the space will be adequate for at least the next ten years.

Dale Baker, a tenant in the building, spoke in support of the proposal, stating that the owners have done a very good job in maintaining and operating the building. He added that a new business at this location would be nothing but positive for the community.

Mr. Collins stated that any oils or other hazardous materials generated by the business would be properly manifested and disposed of. He also added that the applicants have purchased new siding for the building to improve its appearance.

Mrs. Francis expressed concern that the project would have off-site traffic impacts in that it would bring additional traffic into an area that is already subject to traffic issues. She feels that

the size of the site makes it difficult to fit a business such as this. Mr. Leonard reiterated that there was never an issue with traffic or parking when owned the store. Discussion continued as to the adequacy of the parking area and whether there was sufficient room to park larger vehicles without blocking the doors or intruding into the travelled way. The subject of a 3-6 month trial period was also discussed however it was noted it could result in hardship to the owners if they make an initial investment into the property only to be told later that they must make major changes or even close down.

Mrs. Royce suggested that the applicant mark out the parking spaces on the pavement and the Board schedule a site visit to see for themselves whether the parking area is adequate.

Mrs. Francis raised concern about potential noise impacts on neighbors from the service shop. Mr. Collins replied that they would typically not be doing engine work and that the motorcycles would not be running in the shop. Mr. Baker stated that semi-trucks on Sullivan Street make more noise than the motorcycles. Mr. Collins added that there were no doors or windows on the back side of the building facing Ms. Aiken's property and that the back wall had extra insulation to reduce potential noise.

**After further discussion Mr. Thibodeau moved that the Board schedule a site visit to the subject property at 7:00 PM on Monday May 9, 2011. Mrs. Royce seconded the motion.**

Mr. Neill asked if the old underground fuel tanks had ever been removed from the property. Mr. Leonard stated that he did not know. Mr. Neill noted that there are contamination problems in the area that presumably emanated from the former gas station on the corner of Main & Sullivan Streets. A comprehensive geotechnical investigation of the area is about to commence.

**Mr. Frizzell called for a vote on Mr. Thibodeau's motion and with all in favor the motion carried.**

Mr. Edkins reiterated for the record that the Board would conduct a site visit at 26 Sullivan Street on Monday May 9 at 7:00 PM after which the Board would re-convene in the Community for further deliberations on this matter. Because this meeting is being announced at this time, no further notice to abutters or the public will be given.

Mr. Jellie re-assumed his seat on the Board at this time.

## **PLANNING & POLICY ISSUES**

**Subdivision Regulations** – Mr. Edkins reported that he had nothing new to present on this topic. Mr. Larry Crocker stated likewise. Mrs. Francis suggested that the Board defer its consideration of this matter to a future meeting.

**ADMINISTRATION & CORRESPONDENCE**

Mr. Edkins reported that there were no administrative matters or correspondence for Board consideration this evening. Mrs. Smith-Hull commented that there appear to be a number of vehicles for sale at the old Indian Shutters property off Route 12. Mr. Edkins reported that the owner of the property had approached him last week about a possible sales lot on the property. Mr. Edkins provided him with an application for Site Plan Review but had not heard back since.

**ADJOURNMENT:**

**There being no other business, Mrs. Francis moved for adjournment. Mr. Neill seconded the motion and, with all in favor, the meeting adjourned at 8:21 PM.**

Respectfully submitted,  
David Edkins,  
Planning & Zoning Administrator

Minutes Filed: 5-9-11

(Note: These are unapproved minutes. Correction, if necessary, will be found in the minutes of the May 9, 2011, Planning Board meeting.)

Cold River Cycles, LLC.  
John Burns-David Collins  
26 Sullivan St. PO Box 502  
Charlestown, NH 03603

May 3, 2011

Planning Board,

First off, we'd like to thank the board for your time and consideration of our application. We would like to verify a few items of interest that were brought to our attention so that things may proceed professionally, to a final, positive outcome.

Secondly, we expected letters and concerns from neighbors and knew we would have to be considerate of their rights and living environments. Mr. Poisson's came as no surprise. What did was his apparent memory loss of our conversation in his office late last fall. He actually approached me (David Collins) and invited me into his office and we had a nice twenty minute conversation about the property, our intentions, and how we planned on doing our best to make the neighbors comfortable and in the know. He had questioned me about noise along his driveway and I explained to him that John and I have every intention of having any motorcycle that might need to have same day service, be pushed to our rear entrance and into the work area without the motor running. At the time, Mr. Poisson thought that was a good idea. The past owner had five or six Harley Davidson motorcycles in the garage part of the building where we want to open, and Mr. Poisson never had a problem with the noise from His bikes or father or brother visiting on their Harleys. His letter complains about our "commercial size" door that is a very basic four foot wide door that we had a permit for. He talks about the accuracy of the maps we used. We are only applying for a change of use as David Edkins stated we needed. He goes on about snow removal. In reading your final approval minutes for the previous owners business, there was no problem with snow removal then. There was not a condition, although we would not have a problem with

one that would state we are responsible for the snow to not become a problem for our customers or local traffic and would have it removed if it became a problem. I hope we have already addressed Mr. Poisson's, or anyone else's question about noise. We are not responsible for what our customers drive on public roads. As stated, if we were to work on a motorcycle, we would push the bike to the work area w/o the bike running. We have every intention of becoming a New Hampshire State Inspection Station and as such, any motorcycles we would be inspecting would be subject to decibel readings within state limits. (enclosed is a copy of David Collins's NH State inspectors card with his number).

Now comes the Chief of Police, Ed Smith with a very discriminating and rude letter. I have always had a great relationship with the police in my town. Starting with Chief Erwin Ward and continuing with Chief Christopher Lyons, whom is friends with my sister and her husband. They both used to come up to the Open Houses and partake in the festivities. Myself, I was on the ZBZ for years and was Chairman of the Board the last three as well as being a full member of the Planning Board. My old shop also sponsored many events with local charities most notably the Alstead Duck Race benefiting the Vilas Elementary Parent/Teachers Org. In addition, when the Springfield Vermont Police Department needed someone qualified to rebuild their police motorcycle as it was in many different boxes, they chose me after scrutinizing my experience and certification. This began a long relationship with Chief Barbara Higgins. I ended up helping her and her husband Ron with their Harley Davidson touring bike. They brought many of their friends for reputable service work on their respective bikes. I digress back to Charlestown Chief of Police's letter and his statement that Harley Davidson's were "arguably the most obnoxiously noisy style of bike built". This sounds extremely personal and unprofessional to say the least. Is this the town of Charlestown's stance and opinion? Officer Smith goes on to be against anything we may or may not attempt in the future that any business has a right to do.

If we ever would be doing anything other than running our parts store that we are in a dire need to open, the first part of planning any event is to talk to the authority in the town and work things out to everyone's satisfaction. At this point, I would like to explain a little bit more about the business we are planning. It is not a Hell's Angels clubhouse or even a Harley Davidson only business. Officer Smith complains about "the genre" of my customers. Our customers come from all walks of life. Half of our business is either metric motorcycles, or the combination of dirt bikes, ATV'S, and snowmobiles. I have serviced and sold parts to Albert St. Pierre here in town and I don't think he would like to know that Officer Smith looks down on him and people like him. Although Chief Smith let the Heritage Tavern do things he apparently thinks we want to do. We just want to open and try and make a living. This commercial building is in the commercial Zone and we would like to work things out with the board so that we may open and bring some prosperity to Charlestown. It's our experience that local businesses are very appreciative with their increase in business.

My problems came from a drunk teenage snowmobile rider, not on the Harley. I did end up losing everything including my wife, house business and eventually went bankrupt. Now that I finally have had my leg amputated and I am getting around a little better, I want to get back into the workforce and have the opportunity to do that with John and the use of his Mom's commercial building.

We now speak in regards to the meeting minutes of 06-03-97 concerning the previous owners business and final approval. Mr. Poisson states that when he bought his property, he was under the impression that there be no retail operation at our 26 Sullivan St. address. How absurd, not even a possibility of a condition. It was noted that Mr. Beaudry had a concern that the board was "hard on people coming in for minor site plan review". We happen to be experiencing that. The ordinance in town states that there be "sufficient off street parking for employees. As far as multiple



customers, it is my experience that at most we would have one or two at a time and may go two or three days w/o a customer. Obviously there wouldn't be any groups gathering as the Chief of Police made it quite clear that he will fight that. Thanks for meeting residents halfway and working with them. Speaking of that, John and I are not "out of towners" coming into "your" town. We are both native to the area and went to Fall Mt. John's daughter, Amanda, recently graduated from there. Our good acquaintances in this area include Albert St. Pierre, Barbara Lumbra, Bob Mier, The Jellies, the Moores, the Ledrews, The Balcoms, The Jacksons, the Frizzells, the Putnams, and many more. John's wife, Robin, is from Charlestown. My lady friend and future wife, Sandy, and her family the Bragg's have lived here for forty-five plus years.

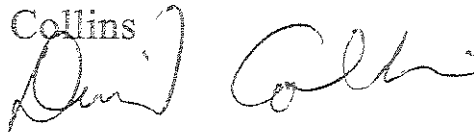
Now the crux of the matter...PARKING. We feel that the parking will be adequate for our needs as customers rarely show up at the same time as others. John and I will both be parking off site. There will be at least four available spots for our customers. They also have the opportunity to use the public parking and being that a lot of our customers are healthy, athletic dirt bike riding individuals who would be inclined to park further away and walk, similar to not parking close to the grocery store and walking a greater distance. In the aforementioned minutes, Mr. Ferland and Mr. Thibideaux commented on there being numerous parking spaces similar to the ones at 26 Sullivan Street and that they don't seem to be a problem for the town. The board was quoted as saying that it "doesn't believe there is a safety hazard in backing out because of the distance to the corner. We would have no problem to have a condition that the spaces be delineated with painted lines. We also plan on improving the driveway/parking area as we have the building and will continue to with future new siding, paving, roof, etc.

We close in saying that we truly want to get along and cooperate with the town and our neighbors. Our hours of operation would

be M-F 10:00am-6:00pm and Sat-10:00am-4:00pm. The signage we would need would go through the sign permit process and if lit up during darker hours, it would be off at our closing time. There are others in town that stay on overnight and that is not our desire. Thank you for your time, patience and consideration.

Respectfully,

David Collins

A handwritten signature in cursive script that reads "David Collins".

John Burns

A handwritten signature in cursive script that reads "John Burns".