

TOWN OF JAFFREY
Jaffrey, New Hampshire

BOARD OF ADJUSTMENT
Meeting Minutes
December 7, 2010

Present: Chairman Sawyer, Members, Belletete, Dodge, DuMont, Webber

Absent: Members Campbell

Staff: Recording Secretary Lemire, Building Inspector Baron

MEETING MINUTES APPROVAL

On a motion by DuMont, seconded by Dodge, the minutes for the November 2, 2010 meeting were approved as presented. (4-0)

PUBLIC HEARING

Chairman Sawyer called the public hearing to order at 7:30 p.m. The rules of procedure were read aloud. Notice of hearing for case No. ZBA 10-14 as advertised in the *Monadnock Ledger-Transcript*; copies was posted in the Town Office building and the Library; copies were sent to the Planning Board, the Conservation Commission, and the Board of Selectmen; and notice of hearing was sent by certified mail to all abutters whose names were provided by the applicants.

Public Hearing - New Items

1. ZBA 10-14; Gilson, Jonathan, 56 Lord View Dr., Map 237/ Lot 68, Zone: Residence A (without town water).

Special Exception – The applicant proposes to operate a home based business. (Zoning Ordinance, Section IV, 4.16.2)

Variance – The applicant proposes to operate a home based business. (Zoning Ordinance, Section IV, 4.16.2)

Presentation: Jonathan Gilson

Appearance: Matthew Della Valle

Mr. Gilson stated that he is applying to operate a home based business out of his home at 56 Lord View Drive. They operate an internet based fitness business where they sell fitness equipment within the confines of the house over the telephone and the internet. He does not believe the business interferes with the abutters enjoying their own properties.

Chairman Sawyer asked if any of the product sold ends up at the Lord View Dr. property awaiting pick-up. Mr. Gilson replied that it is very limited. His packages are very small and pass through common carrier such as UPS and Fed-X no more than once a day. Mr. Gilson understands that the complaint which brought him to the ZBA was the presence of freight trucks on Lord View Dr. Mr. Gilson stated that this happens very seldom and it is not connected to his business. It was in fact a delivery of fitness equipment for his personal use; he does operate a small gym for his own use in his garage.

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Member Dodge asked Mr. Gilson if customers come to his house. Mr. Gilson replied that there are no customers on site. Besides himself and his girlfriend they have one employee, Matt Della Valle, who comes to the property daily and another who comes to the property once a week. In total the company has seven employees. Member Dodge asked if from the outside there was any evidence that he was running a business. Mr. Gilson stated that it would not be evident. Member Dodge asked if he anticipated the need for more employees. Mr. Gilson replied not at this site.

Member Belletete asked if there was adequate parking; how big is the driveway? Mr. Gilson replied 60 x 60.

Member Dodge pointed out that both a variance and a special exception have been applied for. Mr. Gilson explained that the variance application is a safety net suggested by the Building Inspector in case the board would deem it necessary. In Mr. Gilson's opinion he feels he meets all of the qualifications and that he will not have to pursue the variance portion.

Member DuMont asked if there was an Association for the development. Mr. Gilson thought there was a Lord View homeowner's association but he was not certain.

Mr. Terry Choate is an abutter at 64 Lord View Drive and he stated that there is a covenant in the deed which states that a business granted by the exception of the town is not allowed under any circumstances. A copy was given to both the board and Mr. Gilson. Mr. Choate disagrees that the business is transparent and submitted a list of dates and times when deliveries have been made to the property by carriers such as Fed-X, UPS, Ryder trucks and on occasion semi-trucks. Mr. Choate stated that 95% of the business takes place outside of Mr. Gilson's garage where packages are dropped off or left for pick-up and that is the biggest problem. Pictures showing the closeness of the two homes were submitted to the board. In addition to the commercial traffic there is the issue of noise generated from the gym which is set up in the garage and the frequency of passenger vehicles. It is Mr. Choate's understanding that in addition to his business Mr. Gilson is also a Personal Trainer. Mr. Choate stated that all they are asking is that the board grant an exception that meets certain criteria and this business does not meet that criteria.

Speaking to the covenant issue Member Dodge cautioned Mr. Gilson stating that even if the board grants his request he still may not be able to operate his business.

Abutter Mr. Kirk Daily has issues with the inconsistencies in the petition and a concern that this is a stepping stone towards expanding the business.

Mr. Barlow is not an abutter but is a resident of Lord View Dr. and he expressed concern over the tractor trailer trucks that sometimes make deliveries. Mr. Barlow is under his Doctor's care and in the event that he needs assistance he is concerned about the trucks that have at times blocked the road.

Mr. Gilson stated that his company has purchased a warehouse out of state and they are in the process of moving all distribution there. What is being seen now is the artifact of a conversion from a drop shipping business to a direct supplier where inventory is taken. That inventory is no longer going to be taken at 56 Lord View Dr. in any way, shape or form. Mr. Gilson added that he invites "all of you" into the home to see what is there; it's very little and continues to decline. In the very near future there will be no UPS or Fed-X other than for his own personal use. Addressing the idea that they are training people besides themselves in the home Mr. Gilson said they have converted a two stall garage into a gym and there are four people who

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train there. There is no revenue generated and it is nothing more than four individuals trying to stay fit. Evidently this is not to the neighbor's satisfaction and he invited them to see that as well. If it makes them happy to have hours or times they are amenable to that. He feels that many of the complaints can be alleviated neighbor to neighbor.

Chairman Sawyer asked if he would be able to run his business without any business related deliveries or pick-ups if the board granted his request. Mr. Gilson replied that he could.

While arranging a time to make a site visit Member Dodge made Mr. Gilson aware that the board's site visit is part of the public hearing and therefore abutters are legally allowed to tag along with the board. Mr. Gilson asked the board to clarify what it is they are going to his property to do. Chairman Sawyer replied that it will allow them to look the situation over based on facts. They will want to look at the gym and any other part of the house where the business operates. Mr. Gilson stated that he preferred the board make their visit during daylight. Thursday, December 9th at 3:15 was set for the site visit.

There being no further comments, Chairman Sawyer closed the public hearing for this item.

On Thursday, December 9th at approximately 12:30 p.m. Mr. Matthew Della Valle submitted a letter stating that his applicant, Mr. Gilson, was withdrawing both applications and that he would not be leading the board or any abutters through his personal property. All board members were notified and the site visit was cancelled.

DECISION

OTHER BUSINESS

ADJOURNMENT

The meeting adjourned at 8:30 p.m.

Submitted:

Erlene R. Lemire
Recording Secretary

Attest:

Lee A. Sawyer
Chairman,
Jaffrey Zoning Board of Adjustment

Decisions of the Zoning Board of Adjustment are subject to a 30-day appeal period for rehearing.