

ZONING BOARD OF ADJUSTMENT
268B MAMMOTH ROAD
LONDONDERRY, NH 03053

DATE: DECEMBER 15, 2010

CASE NO.: 12/15/2010-1

APPLICANT: JANET AND GLEN RODGERS
28 KENDALL POND ROAD
LONDONDERRY, NH 03053

LOCATION: 28 KENDALL POND ROAD, 4-25, AR-I

BOARD MEMBERS PRESENT: VICKI KEENAN, CHAIR
MATTHEW NEUMAN, VICE CHAIR
JIM SMITH, VOTING MEMBER
JOE GREEN, NON-VOTING ALTERNATE
MICHAEL GALLAGHER, VOTING ALTERNATE
LARRY O'SULLIVAN, CLERK

ALSO PRESENT: RICHARD CANUEL, SENIOR BUILDING INSPECTOR/ZONING OFFICER

REQUEST: SPECIAL EXCEPTION TO ALLOW COOKING CLASS INSTRUCTIONS AND THE SALE OF COOKING-RELATED ITEMS AS A HOME OCCUPATION IN ACCORDANCE WITH THE PROVISIONS OF SECTION 3.12.

PRESENTATION: CASE NO. 12/15/2010-1 WAS READ INTO THE RECORD WITH NO PREVIOUS CASES LISTED

VICKI KEENAN: Please be sure to state your name and address for the record.

JANET RODGERS: I'm Janet Rodgers, 28 Kendall Pond Road.

GLEN RODGERS: Glen Rodgers, 28 Kendall Pond Road.

VICKI KEENAN: If you could present your case and your application?

JANET RODGERS: Okay. We're looking for a special exception for a home occupation to conduct cooking classes and demonstrations and other food related activities as well as sell items to class participants that are food related or cooking related. I'm not sure what else you need to know beyond that.

VICKI KEENAN: It might be helpful to have you walk through your application, all of the questions that are on it and response and add any color to it that you...

JANET RODGERS: Okay. I did check with the State. There are no licenses required since I won't be selling food. I'm looking to have my operation open from Monday through Saturday and the hours would be from nine thirty (9:30) AM to nine thirty (9:30) PM, however, I would not be conducting classes necessarily every day or every hour. That would allow me the flexibility to hold early mornings for people who need that as well as later evenings and then throughout the day.

MICHAEL GALLAGHER: Excuse me. I apologize. What did you say the hours you were looking for?

JANET RODGERS: I have it for nine thirty (9:30) AM to nine thirty (9:30) PM.

MICHAEL GALLAGHER: Monday through Saturday.

JANET RODGERS: Monday through Saturday. That way, if I hold a cooking class starting at six thirty (6:30) in the evening for people who are getting out of work, I have two (2) to two and a half (2.5) hours where I can do everything we need to do and still get them out the door before nine thirty (9:30).

MICHAEL GALLAGHER: Thank you.

JANET RODGERS: At this time I won't be looking for a sign. As far as the space available, our total living space is two thousand, five hundred and four (2,504) square feet. The area that we would be using is three hundred and forty (340) square feet, so it comes out to thirteen point five eight (13.58) percent of the living area. I provided parking diagrams for everyone. There's more than adequate parking space for five (5) to eight (8) cars because of the size of the driveway. It's a horseshoe shaped driveway with three (3) spaces, actually, in front of the garage as well. This doesn't require any kind of renovations or construction. We wouldn't be using any storage area outside of the home. I would be the only one doing the actual instruction. Glen really won't be involved in that at all. At least not at this time.

GLEN RODGERS: Thankfully.

JANET RODGERS: We don't work well in the kitchen together. And I think that that covers everything on my application.

VICKI KEENAN: Okay. Then why don't we bring it back to the Board to ask some questions? Does that sound good?

JANET RODGERS: Mm-hmm.

VICKI KEENAN: I'll start out with one. How many people, or what's the maximum class size?

JANET RODGERS: The absolute maximum would be twelve (12) people. I'm looking more at probably at four (4) to eight (8) and that will depend in part on whether it's going to be a hands-on cooking class or a simple demonstration. If it's a demo, I can put more people in there.

VICKI KEENAN: Okay.

JANET RODGERS: If it's hands-on, I want to keep it to a lower number.

VICKI KEENAN: If you have a class max size of twelve (12) people and you can do, I think it's five (5) to eight (8) cars in the driveway, where would those other people park?

JANET RODGERS: Well, that's assuming that people are coming together.

VICKI KEENAN: Okay.

JANET RODGERS: There would be parking on an adjacent street...

VICKI KEENAN: Okay.

JANET RODGERS: ...that would keep them off of Kendall Pond Road.

VICKI KEENAN: Okay.

JANET RODGERS: But again...how many cars do you think really can comfortably fit there?

GLEN RODGERS: Probably about eight (8) maybe.

JANET RODGERS: Yeah.

GLEN RODGERS: Depending on the size of the car, too, so...

VICKI KEENAN: Okay.

JANET RODGERS: Yeah, so I don't anticipate that that's an issue. If it is an issue, we can certainly resolve that.

LARRY O'SULLIVAN: The reason for the question is we don't want people to be parking on the road for an in-home business.

JANET RODGERS: Absolutely.

LARRY O'SULLIVAN: Okay.

JANET RODGERS: Now, is that the case for the side streets as well or is it mainly just that main road?

MICHAEL GALLAGHER: Yes.

JOE GREEN: [Indistinct] streets.

JANET RODGERS: It would be Horseshoe Lane.

VICKI KEENAN: What type of products will you be selling out of the home?

JANET RODGERS: It would be things like cookbooks or aprons, certain spices and herbs or condiment-type things. Again, anything that would be related to that whole area. I'm planning on setting up a website to do most of that kind of thing and the things that I'd be selling from the home would be the small items and it would be to the people who are attending the class. It wouldn't be a case of "stop in anytime and pick up groceries."

VICKI KEENAN: Okay.

JANET RODGERS: That's just [indistinct].

MATT NEUMAN: So it'd just be during class?

JANET RODGERS: Exactly.

LARRY O'SULLIVAN: So it's certainly not a retail oriented business...

JANET RODGERS: Exactly.

LARRY O'SULLIVAN: ...where you'd have people coming and going just to pick up salt or what have you.

JANET RODGERS: No, I would not...

MATT NEUMAN: No drive thru window or anything like that?

[Laughter]

JANET RODGERS: No, I don't want my life disrupted that much.

MATT NEUMAN: What type of food are you gonna be instructing on?

JANET RODGERS: It'll be a very broad variety. The categories, as I'm working this through, you know, trying to set up the website, the categories that I set up so far, there would be, like, appetizers, there would be breakfasts and brunches, entrees, some ethnic cooking, desserts...

MATT NEUMAN: Did you bring any samples with you?

[Laughter]

JANET RODGERS: I didn't.

MATT NEUMAN: For the Board? No? Okay.

JANET RODGERS: If I had known...

VICKI KEENAN: We could be persuaded.

MATT NEUMAN: Just so we can get an idea of what we're talking about here.

JANET RODGERS: That's right.

[Laughter]

VICKI KEENAN: Will there be online sales of the cooking equipment and things like that just to those who have attended class?

JANET RODGERS: No, the online sales would be open to anybody who happens to find my website. However, most of that, I am planning to set up more as an affiliate-type thing so that I don't have to handle...

VICKI KEENAN: Packaging.

JANET RODGERS: ...packaging or shipping. Everything will be done...

LARRY O'SULLIVAN: Off site?

JANET RODGERS: ...by the manufacturer.

LARRY O'SULLIVAN: Off site?

JANET RODGERS: Absolutely.

LARRY O'SULLIVAN: So you wouldn't be taking deliveries of...what have you?

JANET RODGERS: No. No.

LARRY O'SULLIVAN: Okay. So there's no delivery trucks or vehicles that you expect to have?

JANET RODGERS: No. Exactly. Just to elaborate a little bit on that. If I'm selling, for example, some of the herbs and spices or aprons, those might be delivered by UPS infrequently and they would be taken out with the student.

JIM SMITH: Any employees?

JANET RODGERS: No. Not at this time. I'd like to hope that someday I might have to hire somebody but we'll see.

VICKI KEENAN: Taste tester?

MATT NEUMAN: I am available.

[Laughter]

JANET RODGERS: Okay, I'll keep that in mind.

LARRY O'SULLIVAN: And you come cheap, right?

MICHAEL GALLAGHER: As far the inventory goes, are you looking, you know, to keep yourself stocked there or is it kind of per class?

JANET RODGERS: For the merchandise?

MICHAEL GALLAGHER: Yes.

JANET RODGERS: Again, it would be at most six (6) items of any one (1) thing. I don't...I mean, I don't want to get into that. I just want it to be there as a convenience for the participants. And it would be more along the lines of those things that it would be difficult for them to get. If Glen goes into Chinatown and picks up some special types of foods, I wanna be able to offer that if we can't get it locally.

LARRY O'SULLIVAN: You don't need a license for this business?

JANET RODGERS: No at as long as you're...as long as you're not cooking and reselling the food...

MATT NEUMAN: Mm-hmm.

JANET RODGERS: ...you don't need one.

LARRY O'SULLIVAN: Okay and can I ask why you're here? This seems to me to be the kind of a business that people run out of their homes regularly.

VICKI KEENAN: She's trying to do the right thing.

LARRY O'SULLIVAN: Without the...? Yeah, I'm wondering, did somebody ask you to...?

MATT NEUMAN: That doesn't happen, Richard, does it?

[Laughter]

JANET RODGERS: I'm sorry.

LARRY O'SULLIVAN: Did someone ask you to come here or were you told that you needed to go in front of the ZBA?

JANET RODGERS: How did that come about?

LARRY O'SULLIVAN: Just a curious question.

JANET RODGERS: Well, I...

RICHARD CANUEL: It's a home occupation.

VICKI KEENAN: Right.

MATT NEUMAN: Right.

LARRY O'SULLIVAN: Oh, absolutely.

JANET RODGERS: I think what it is is I...

LARRY O'SULLIVAN: The letter of the law, right? But...

JANET RODGERS: Yeah. No, I started with the State, the Department of Health and Human Services, and they were the ones who told me, "no, you don't need to be licensed, but you may need to get your town involved." And then it was just researching it on the internet and everything led to this and it just makes sense to...

MATT NEUMAN: Yeah, and I think because it's gonna be based out of the home and it's not gonna be something like a Pampered Chef or something like that where you would be traveling to other people's homes, or...

JANET RODGERS: Yeah. So, it just made sense to follow this route.

MATT NEUMAN: Avon or something like that.

VICKI KEENAN: Yeah.

LARRY O'SULLIVAN: Better to be covered, you're right.

GLEN RODGERS: Like the parking issue...

JANET RODGERS: Yeah, and the parking issue...

GLEN RODGERS: The parking issue and stuff like that.

JANET RODGERS: ...that certainly, it just sounded like this is something to double check it through the Zoning Board.

VICKI KEENAN: Mm-hmm. Yup. Okay.

MATT NEUMAN: Now...Oh, I'm sorry. I had another question.

VICKI KEENAN: No, go ahead.

MATT NEUMAN: The storage of the food. Do you see, like, big freezers coming, you know, in your future and...?

JANET RODGERS: No, because...no, the food will be purchased as needed and again, this is something that I anticipate's gonna ramp up very slowly and it's very controllable. I don't anticipate storing frozen foods on site. I would much rather just deal with the fresh...

MATT NEUMAN: No big walk-in cooler going into the bedroom or anything like that?

JANET RODGERS: No...

MATT NEUMAN: Because, I mean, you're presenting it limiting it to the kitchen.

JANET RODGERS: Yes.

MATT NEUMAN: So you're not gonna be moving outside of there?

JANET RODGERS: Absolutely not. Nope.

VICKI KEENAN: Any other questions from the Board? Seeing none, let's open it up to the public for comment. Anyone in the audience that...?

ALEXANDER HAHNL: Yeah.

VICKI KEENAN: Would you come up to the microphone, state your name and address and then...

ALEXANDER HAHNL: Right here?

VICKI KEENAN: Yup, sure.

ALEXANDER HAHNL: Hi. My name is Alexander Hahnl. I live at 1 Horseshoe lane and any parking that's gonna be done on Horseshoe Lane will impact me, us, very strongly, especially in the wintertime and the snow...getting rid of the snow and parking when people are gonna park there, it's gonna be a nightmare as far as my driveway, getting in and out of driveway is concerned. I didn't even think about that issue 'til they mentioned that, okay? I have no problem with the business, as long as...I'd hate to see a sign up. It would be

horrible. It's a residential area there. I don't think that...she said she's not looking for a design now, and I picked up the "now". And several of my neighbors I've talked to and they said, "Oh, I wish I could be there," and I said, "why don't you be there?" Okay? But I told them those are the two issues that I was concerned about is the sign. As long as there's no sign, there's no problem, okay? If I'm gonna start seeing all kinds of cars come in my driveway, then I'm having trouble getting out of my driveway, that's not gonna be acceptable in any way. So, I mean, a lot of the neighbors around, they get people come, some of their people park in the driveway. That's fine. Wonderful. They stay away from my driveway. Okay? Every once in a while, somebody will get by the driveway and that's...then it's, you know, you don't want to hit somebody else's car coming out of your own driveway when, you know, it's all your property along that whole line. So, that's only my concern is those two issues.

VICKI KEENAN: Thank you.

JOE GREEN: I have a question.

ALEXANDER HAHNL: And I've met most of my neighbors. I never met these folks. And there's only one house between us.

MICHAEL GALLAGHER: Where's Horseshoe Lane?

JOE GREEN: Yeah, that's what I was...Where's Horseshoe...?

ALEXANDER HAHNL: I hear you drive a tractor quite a bit.

GLEN RODGERS: Yup.

ALEXANDER HAHNL: Yeah. Well, there's no reason why that you can't make sure that the...the snow plow comes in that area, you come out that tractor, come out there, make sure that snow doesn't block the driveway and help the neighborhood.

LARRY O'SULLIVAN: [Indistinct].

ALEXANDER HAHNL: 'Cause when I snow blow, I got a twelve horsepower, I snow blow the whole street, that whole end of the street. I've snowed that...including my driveway, just to help keep that clear but...

VICKI KEENAN: [Indistinct].

MICHAEL GALLAGHER: [Indistinct].

JOE GREEN: I don't know. I wanna ask.

ALEXANDER HAHNL: It's just a thought.

GLEN RODGERS: Well, you've got the better tractor anyway, so...

VICKI KEENAN: You guys, it's Anderson Circle.

JOE GREEN: They call it Horse...oh, they changed the name?

VICKI KEENAN: Well, if you zoom out, it's...

JANET RODGERS: Yeah, it used to be Anderson Circle.

ALEXANDER HAHNL: That's it.

JANET RODGERS: So as you're facing...

MATT NEUMAN: Thank you.

LARRY O'SULLIVAN: Mr. Hahnl. Thank you.

MATT NEUMAN: Thank you.

VICKI KEENAN: Thank you very much.

JANET RODGERS: As you're facing our house, it's to the left.

JOE GREEN: Yeah, I see that on the map.

JANET RODGERS: One house over.

MICHAEL GALLAGHER: Sir, you are one 1? One (1)?

VICKI KEENAN: One (1) Horseshoe.

JOE GREEN: See the driveway right there?

ALEXANDER HAHNL: I'm on 1 Horseshoe Lane.

VICKI KEENAN: Any other...? Yup.

JOE GREEN: See the driveway?

ALEXANDER HAHNL: I'm the guy who...

VICKI KEENAN: Can you come up to the microphone, please?

ALEXANDER HAHNL: Yeah, I'm 1 Horseshoe Lane. You can ask John Vogl, I'm the guy that named the street. So...it was a good name. But any other questions? Any questions?

VICKI KEENAN: Nope.

MATT NEUMAN: We're good.

MICHAEL GALLAGHER: No, thank you.

JOE GREEN: No, we just wanted to make sure we saw you on the map and how it would disturb your parking, et cetera and we couldn't find Horseshoe Lane, it said Anderson Circle, so...

ALEXANDER HAHNL: Well, yeah, well that's the whole thing. In fact, I had a talk with John just the other day because I had several communications with Google and Google corrected their proper map but Nastech (?) that takes the Yahoo! and everything else, they haven't updated and...they've updated, what they did is they added Horseshoe Lane to Anderson Circle and it's causing a lot of people a lot of problem with delivery. I mean, they would have problems with delivery. They say that "near the corner of Horseshoe Lane," okay?

MICHAEL GALLAGHER: They can't find it.

ALEXANDER HAHNL: People can't find Horseshoe Lane.

VICKI KEENAN: Right.

ALEXANDER HAHNL: Alright, but that's something that's taken care of slowly, so that's...

VICKI KEENAN: Okay.

JOE GREEN: Thank you.

ALEXANDER HAHNL: I'm right on the corner.

JOE GREEN: I see you. Yup.

ALEXANDER HAHNL: In fact, when they had the discussions about naming the street, there was one of the gentlemen that turned around and said because my house is right on the very corner on the front and my driveway is only fifty (50) feet away from Kendall Pond Road...

VICKI KEENAN: Mm-hmm.

ALEXANDER HAHNL...I really shouldn't have much say about the street. That's...

VICKI KEENAN: Thank you. If you have anything else to add...

ALEXANDER HAHNL: Okay, thank you very much.

VICKI KEENAN: Okay, thank you very much.

ALEXANDER HAHNL: Okay.

VICKI KEENAN: Okay, is there anyone else in the audience that would like to either...would like to comment on the application? Seeing none, we'll bring it back to the Board for deliberation.

JIM SMITH: Okay, I'm gonna make one comment.

VICKI KEENAN: Okay.

JIM SMITH: In your comment about the sign. Since they're not requesting a sign in this application, they would have to, in fact, come back to this Board again to request a sign.

ALEXANDER HAHNL: That was my concern.

JIM SMITH: Yeah. They would have to still come back here.

ALEXANDER HAHNL: That's why I'm here. I didn't think about the parking issue. I just figured they'd have probably four (4) to six (6) people and be able to park there, so...

JOE GREEN: So we don't have to put a restriction in for the sign?

JIM SMITH: Well, they're not requesting it.

MATT NEUMAN: No.

VICKI KEENAN: No, because it's part of their application.

LARRY O'SULLIVAN: Besides, everyone in town is allowed to have a sign on their property, just as long as it's no more than what, Richard, three (3) square feet?

RICHARD CANUEL: Three (3) square feet. That's right.

LARRY O'SULLIVAN: Right? You can put one on every property in town if it's less than three (3) square feet. Now, without coming in front of this Board.

ALEXANDER HAHNL: Can you repeat that? I didn't quite hear that.

LARRY O'SULLIVAN: Everyone in town, every property in town, has the right, by our ordinances, to have three (3) square feet of signage on their property.

ALEXANDER HAHNL: Uh-huh.

LARRY O'SULLIVAN: All the time.

ALEXANDER HAHNL: Okay. Does it have to be a certain amount of way back from the street?

LARRY O'SULLIVAN: Depends on the street, I believe and where the right of way is and so forth but yes.

ALEXANDER HAHNL: Yeah.

LARRY O'SULLIVAN: Mm-hmm.

VICKI KEENAN: Alright. Let's keep it with the Board if we can for deliberation, okay?

LARRY O'SULLIVAN: And Richard will be happy to answer those questions, right?

DELIBERATIONS:

VICKI KEENAN: My only concern with this is the parking.

JOE GREEN: Yeah, me too.

LARRY O'SULLIVAN: Yup. I think that's...

VICKI KEENAN: And limiting the class size to only the amount of vehicles that can fit in the driveway.

LARRY O'SULLIVAN: You got it.

JOE GREEN: Yeah, and also, if you look at number four (4) [i.e. 2005 aerial view of the property from Town GIS system], if everybody can look at number four (4) for a second, I think it's a very good visual of how many cars you can actually park in there. I would say maybe three (3) or four (4) absolute highest, because otherwise you're gonna block the Horseshoe drive thru. I mean, do you see how there's one (1) car in the driveway there?

VICKI KEENAN: Mm-hmm.

JOE GREEN: In picture four (4)? So, you're not gonna fit, you know, more than four (4) cars there parked. I mean...

MATT NEUMAN: I don't know, I think you could...

VICKI KEENAN: [Indistinct] a row. Yeah.

JOE GREEN: That's a car. Do you see the car?

MATT NEUMAN: Right, but I think you could...

LARRY O'SULLIVAN: Sure.

JOE GREEN: Visualize four (4) there.

MATT NEUMAN: But we're not saying that they have to just have four (4) parking spaces. I mean, they can physically...

LARRY O'SULLIVAN: They have to park in the driveway.

MATT NEUMAN: Yeah.

VICKI KEENAN: Why don't we just say that all the parking has to be restricted to the driveway?

LARRY O'SULLIVAN: Yeah.

VICKI KEENAN: No matter how...I mean, they could fit fifteen smart cars in there if they wanted to. We don't really care. But as long as it's not on the street.

LARRY O'SULLIVAN: On the street. Right.

VICKI KEENAN: Yeah. Does that make sense?

MATT NEUMAN: Yeah.

JOE GREEN: Yup.

MICHAEL GALLAGHER: That makes sense, yeah.

JOE GREEN: And the other thing is the retail sales. I'm not sure really how to word it but I know right now, the plan is not to have any retail sales, people coming and going out of the driveway. In the future, if this gets going, is it, you know, if there's a restriction on that maybe? For the retail sales other than pupils in the classes? Can we put a restriction on that? I think it would be hard to enforce anyway, right? Just because people are worried about the traffic and that's a very high, Kendall Pond Road, I mean, there's a lot of traffic there, too, coming in and out of the driveway.

MICHAEL GALLAGHER: Doing internet sales, too, is probably, you know, I don't know if we could...

JOE GREEN: Eliminate that?

MICHAEL GALLAGHER: ...how you could curb that.

VICKI KEENAN: [Indistinct] think so. I don't know how you'd enforce that.

JOE GREEN: [indistinct] to enforce, right?

VICKI KEENAN: Yeah.

JIM SMITH: Yeah, it would be impossible.

VICKI KEENAN: Okay. Any other discussion? Seeing none, I would entertain a motion.

LARRY O'SULLIVAN: Take a motion? I'd like to make a motion to approve Case No. 12/15/2010-1 with the restriction that all parking be done in the driveway and not on the road for any of the classes or any other purpose.

VICKI KEENAN: Is there a second to the motion?

JIM SMITH: I'll second.

VICKI KEENAN: And there's a second. So, there's a motion to grant the home occupation for the application with the restriction. Any discussion around the motion?

MICHAEL GALLAGHER: Yeah, did you....Larry, I'm sorry, did you say...restrict the parking, limited to the driveway only?

LARRY O'SULLIVAN: Mm-hmm.

JIM SMITH: Yeah.

MICHAEL GALLAGHER: Okay.

LARRY O'SULLIVAN: No on-street parking, right.

VICKI KEENAN: Okay, any other discussion? Seeing none, all those in favor, signify by saying 'aye.'

MICHAEL GALLAGHER: Aye.

MATT NEUMAN: Aye.

LARRY O'SULLIVAN: Aye.

JIM SMITH: Aye.

VICKI KEENAN: Aye. Opposed? Abstentions?

[No response to either].

RESULT: THE MOTION TO GRANT CASE NO. 12/15/2010-1 WITH RESTRICTIONS WAS APPROVED, 5-0-0

RESPECTFULLY SUBMITTED,

A handwritten signature in black ink, appearing to read "Larry O'Sullivan". The signature is fluid and cursive, with a long horizontal stroke at the end.

LARRY O'SULLIVAN, CLERK

TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

APPROVED JANUARY 19, 2011 WITH A MOTION MADE BY LARRY O'SULLIVAN, SECONDED BY MATT NEUMAN AND APPROVED 5-0-2 WITH NEIL DUNN AND JAY HOOLEY ABSTAINING AS THEY HAD NOT ATTENDED THE MEETING.