

**TOWN OF OLD ORCHARD BEACH, MAINE
ADMINISTRATIVE HEARING
Wednesday, September 5, 2012
4:00 p.m.**

An Administrative Hearing was called to order at 4:00 p.m. on Wednesday, September 5, 2012 to consider administrative review.

The following were in attendance:

**Town Manager Mark Pearson
Assistant Town Manager, Louise Reid
Code Enforcement – Jim Butler
Marc Bourassa
Tina Morrison
Police Chief Dana Kelley
Fire Chief John Glass**

Representing Kate's Butter was Attorney Timothy J. Bryant of Preti Flaherty Beleiveau & Pachios LLP, and Lucas Patry, son of the owner, Dan Patry. Residents in attendance included Astrid and Harry Bailey, Yvette Rioux, Ed Dimond, Greg Kidd, Sue and Mary Jordan, Hutch Hutchinson, Walter Douglass, Dimond, Dick Stephen, Betty Chamberlain, Mervin Sedlar, William Guest, Jerry Bernstein, Kyle McCormick, Jessica Hall, Lance Foss, and several who did not sign the attendance log. Many of the above individuals spoke; some indicating that they appreciated what the Patry's have done with their business and the majority concerned over the noise, traffic and disruptions.

ADMINISTRATIVE HEARING #1: 4:00 p.m.

The Town Manager presented the duties of the Administrative Review Board as follows:

ADMINISTRATIVE REVIEW BOARD (A.R.B.) – OUTLINE OF DUTIES

Authority of the A.R.B.

Authorized by Code of Ordinances: Businesses Section 18-38 and Section 18-39

Purpose of the A.R.B.

- 1. FACT FINDING**
- 2. PRIME GOAL = RESOLVE ISSUES**

Process

- **A.R.B. meeting is triggered by either:**
 - 1. one written complaint to License Administrator**
 - **pertaining to Business License / Code / Ordinance violation**
 - 2. three or more disturbances verified by Police Chief**

- This does not imply that businesses appearing before A.R.B. are less than stellar
- Complaint goes to License Administrator, to Town Manager, to A.R.B. (to discuss complaint/disturbance with business)
- If unresolved: to Town Council

Tools

- A. Resolve Complaint or Issue through Common Sense and Mutual Cooperation
- B. Propose Consent Agreement with Applicant
- C. (if not resolved) Recommendation to Town Council of License Revocation/Denial

The Town Manager reviewed the material which has been presented to the Administrative Board prior to the convening of this meeting. Kate's Homemade Butter has been produced in a house in Old Orchard Beach for more than thirty years. It produces more than one million pounds of butter a year as well as buttermilk. They had been planning to move this fall to a 17,600-square-foot facility in Arundel but that relocation has been held up by construction problems with the roof and an alleged stop-work order. The neighbors requested an administrative review meeting to air their complaints about Kate's which range from tractor-trailer trucks driving through a residential neighborhood and damaging roads, to noise in the middle of the night as the butter is produced and loaded on to pallets. During the discussion it was mentioned several times by the neighbors that it is not about shutting down Kate's Butter because several who smoke indicated they are pleased to see how well the company has done. However, it was pointed out that Kate's has grown to the point that it needs two tankers of cream delivered per week and a 48-foot truck picks up finished butter and buttermilk every day between 8:00 a.m. and 4:00 p.m. It produces its current volume of dairy products in about 1,000 square feet of space. Attorney Timothy J. Bryant of Preti Flaherty Beliveau & Pachios LLP, indicated that the company is eager to move and had planned to relocate to Arundel this fall. The work stop-order stems from deficiencies in the building's roof has put a halt on construction. He also indicated, however, that financing is in place to complete the building, but legal issues related to the roof still must be resolved. Under the worst-case scenario, Kate's would have to move by June 2013 when its lease on a storage space in Biddeford expires but the Attorney indicated they hoped it would be sooner. The neighbors indicated they needed a date determined for that move.

The Town Manager asked the question of who lives in the house at this time and Lucas Patry indicated that he had lived there but had moved out temporarily as construction is done to ready the house for sale. Lucas Patry indicated that they start work at midnight and work an 18 hour shift to complete the butter production. It would appear it is the early morning noise that is upsetting to those that live near the business. The neighbors indicated that this is not a house in home business; it is a full sized factory worth of production – one million pounds. It needs to be in a commercial area; not a neighborhood. Several copies of exhibits were presented to the Town Manager showing the parking situation and loading and unloading of the pallets. Lucas Patry explained that only a couple of the six employees work at the factory and that the rest of them are truck drivers. A question was raised about the box trucks which according to Mr. Patry were only parked for fifteen minutes at a time but some of the pictures that were presented show that not to be the situation.

The Code Officer presented a chart which is attached to the Minutes showing the timeline of events relative to the application for the Home occupation to the time of the Administrative Board Meeting. Kate's makes roughly 15,000 pounds of butter in one production shift which can last for 20 hours. There are three butter production shifts weekly, and one day weekly is reserved for buttermilk. Chief Kelly spoke about several complaints and the Police being called particularly as it related to the noise and the parking issues.

Attorney Bryant and Mr. Patry attempted to address the questions that were raised by those in the audience and the Town Manager who presided at the meeting allowed each attendee an opportunity to speak with responses from the Attorney for Kate's Butter. The business and citizen representatives on the Board, Marc Bourassa for Business and Tina Morrison and Gary Curtis for Citizens, raised concerns about the area of the noise, the size of the trucks, the scheduling of outside work that obviously relates to the noise situation and disturbance of people's sleep and recreational time, and the parking situations. They suggested that the owners and their attorney meet with some representatives of the neighborhood and consider possible solutions to the issues that had been raised during the Administrative Review Board. Some of the suggestions they made were a different size of truck such as a much smaller one, less trips; and perhaps a redesigning of the hours of work. Noise, parking, the size of the trucks and the shut down of machines when they open up the garage doors were the main issues discussed by most who spoke. Again, several indicated they did not want to ruin the business for Kate's Butter; that they were pleased to see positive economic upturns for the company and wished them future success but a strong desire for them to move and in a short period of time.

The Town Manager indicated that with consensus the Administrative Board would meet again on Tuesday, September 18th at 4:00 in the Town Council Chamber and look forward to hearing of the results of the discussions which have occurred between the neighbors and the owners of Kate's Butter and to provide an end date for Kate's Butter moving out of the facility.

The Administrative Board Meeting concluded at 6:00 p.m.

Respectfully Submitted,



V. Louise Reid
Secretary to the Administrative Board

I, V. Louise Reid, Secretary to the Administrative Board of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of three (3) pages is a true copy of the original Minutes of the Administrative Hearings held on Wednesday, September 5, 2012.