

Applicant: Richard Heath

Members Present: John Dold, Neil Rowe, Arol Charbonneau and Bruce Barker

The Board of Adjustment held a Public Hearing on Tuesday, October 13, 2009 at 7:30PM in the Municipal Center to consider the request of an Appeal From an Administrative Decision under the terms of Article 2.1.70 Section II of the Zoning Ordinance to permit a clear span fabric structure.

Secretary Arol Charbonneau read the notice, the application and the denial letter from Terry Barnes, Code Enforcement Officer, to the applicant dated September 14, 2009.

Chairman Dold asked the applicant to present his case. Mr. Heath explained he wants to put up a clear span fabric structure to store his wife's car, his motorcycle and other items that are now in the garage so that he can put his lawn care equipment inside the garage, which has a concrete floor, to enable him to work on the equipment. Chairman Dold asked Mr. Heath what is in his garage now. Mr. Heath responded bureaus, a weight-lifting bench, a soda machine, his wife's car and his motorcycle. Chairman Dold then asked Mr. Heath where he parks his equipment. Mr. Heath responded he stores his equipment on a rented piece of property. Chairman Dold asked the applicant if he stores any of the equipment on his property. Mr. Heath responded he has a skid steer that he is using around the property because he is putting up a pool and he also has an enclosed trailer there. Chairman Dold asked the applicant if he has a business to which Mr. Heath responded he already has a home occupation permit. Neil Rowe asked what that was based on. Mr. Heath responded it is for his lawn care equipment which is stored outside behind a fence. Chairman Dold stated that according to the home occupation approval dated February 23, 2006, (Case #492), Mr. Heath was granted a Special Exception for a home occupation with the condition that there shall be no unsightly outside storage of equipment and the homeowner has until September 1, 2006 to provide whatever fencing necessary to conceal items such that the Code Enforcement Officer is satisfied. Neil Rowe read from the minutes of Case # 492, "Joe Derwiecki asked how many pieces of equipment he has behind the fence. Mr. Heath responded he has two lawnmowers, a ditch witch and a trailer. He added there will be nothing in view from the road or from his neighbors". Neil Rowe again read from the previous minutes, "Chairman Rowe asked Mr. Heath if he has come before the Board for a home occupation in the past. Mr. Heath responded that he hasn't. Chairman Rowe stated they will start with the home occupation so his business is legal and based on the type of business, they will address the space issues. John Dold read the definition of a home occupation which included the 25% area. In those minutes, it states there was a request by residents if Mr. Heath could move items from in front of the garage to behind the garage, away from the roadside.

Terry Barnes presented photos he took of the property. Neil Rowe asked if it was temporary storage or has it been there for three years. Mr. Barnes responded it has been there for a while. Mr. Heath stated it has been there for about a month and a half. Chairman Dold asked Mr. Heath where he plans on putting the pool. Mr. Heath responded behind the garage.

Since Mr. Heath was already granted a Special Exception for a home occupation, Arol Charbonneau asked Mr. Barnes for clarification of his denial letter where it states Mr. Heath may want to apply for a Special Exception. Mr. Barnes stated if he was correct in sending Mr. Heath before the ZBA, he can file for another Special Exception to expand his home occupation. Bruce Barker stated Terry Barnes made the decision that using the garage would be an expansion of the home occupation and the Board is deciding whether he was correct or not in doing so. Chairman Dold stated based on the finished floor space of the house, Mr. Heath is allowed 366 square feet for the home occupation.

Mike Smith asked if the structure going up will be used for personal use. Mr. Heath responded basically it will be used for his wife's car and his motorcycle. Mike Smith stated the Special Exception expansion doesn't apply to the personal use of that structure if, in fact, that is what he is going to use the structure for. Chairman Dold asked Terry Barnes if it was his understanding that the structure was for personal use. Terry Barnes responded Mr. Heath was going to put some trailers and other items in there. Mr. Heath stated the trailers won't fit inside the structure. Terry Barnes added the equipment is supposed to be hidden. Mike Smith said the applicant isn't complying with the conditions on the original Special Exception which state that the equipment and other things used in the business would be hidden and out of view of the road, which they are not. David Short suggested the applicant come into compliance with the conditions of Case # 492, apply for the temporary structure and if he wants to bring additional equipment onto the side, apply at that time for an expansion of the home occupation.

Mr. Heath requested that this case be continued to the December 8, 2009 meeting. The Board determined they would like to view the property approximately one week before the meeting. Chairman Dold called Case # 543 continued to the December 8, 2009 ZBA meeting.

Respectfully,

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Norma Corrow, ZBA Clerk

The tape of the meeting is available at the Town Office Building for review during regular business hours.