

**TOWN OF CHESTERFIELD, NH
ZONING BOARD OF ADJUSTMENT**

**MINUTES
June 12, 2007**

Present: Chairman Burt Riendeau, Andy Cay, John Perkowski, Harriet Davenport, Renee Fales, Alternate Tony Souza, Select Board representative Bob Brockmann and Code Enforcement Officer Chet Greenwood. Lucius Evans arrived at 10:00.

The Zoning Board of Adjustment met at the Chesterfield Town Office on June 12, 2007 at 7:30 PM. Riendeau introduced the Board and explained the evening's procedures. The voting members for this evening are Riendeau, Cay, Perkowski, Davenport and Fales. Souza will be the alternate. The following agenda items were heard.

1. Rehearing of Robert C Hodgkins' III request for a Special Exception under Article 204.3 Section A, Home Industry Article 402.4 to permit a Security Consulting business and Firearms Manufacturing. The property is located at 1041 Route 63, Spofford (Map 3 Lot B8.1) Rural/Agricultural Zone. The Special Exception was approved March 20, 2007 and the request to rehear was approved May 9, 2007.

Riendeau advised that under the rules and regulations of a rehearing the Board decided there might be some clarification needed and may be new information to consider. The protocol for the rehearing is to allow only new information that constituted the rehearing and not rehash information given at the March 20th meeting.

Michael Bentley was present representing Hodgkins' petitioners for the rehearing. Bentley asked if the Board wanted Hodgkins to begin. Riendeau stated that the abutters would go first with a time for rebuttal given to Hodgkins with his agreement. Hodgkins agreed.

Bentley stated that in reviewing Hodgkins' response to the appeal notes that there would be no manufacturing of parts but assembly of components; however, his application before the Board notes in his wording "firearms manufacturing". If he is really doing assembling, the applicant ought to say that so the Board will be informed.

The other issue of concern is the storing of ammunition on site. The March minutes note the storage container would have smoke detector and some have sprinklers systems. There also seems to be some confusion on if the firearms assembled get fired on site or not. In Hodgkins' response about his facility in Massachusetts, is where all the testing is done. If that all test firing is done in MA and only assembly of firearms are done on site then these are a whole set of different circumstances. If there will only be assembly then there is no need for a storage container, no need for 25,000 rounds of ammunition stored on site. We recognize his right to fire his own personal firearms on his property.

Under the terms of the ordinance, primarily Article 402.1 sub-section 3 in regard to changing the character of the neighborhood. A storage container with that amount of ammunition is a use that is not normally associated with residential use. Bentley stated what also concerned him about Hodgkins' response to 3.I in the motion to rehear is that " the

owners have already made arrangements for the safe, legal storage of firearms and ammunition at the location". Three months ago Hodgkins was here and advised the Board what he was going to do and now he says he is doing something different than what he had said in March. Bentley doesn't know where the ammo is stored. Looking at the application and what was said in March and what was in Hodgkins' response are very different and Bentley hopes that this is clarified with the Board this evening.

Bentley state the regulations also talk about screening. Pictures were presented showing the screening from Route 63 and the lack of screening from the Bialowski's property. In the last couple of days Hodgkins has put in a picket fence along the Bialowski side of the parking area.

Hodgkins notes in his response that he believes that all the deliveries would be by US Postal with occasional UPS deliveries. Bentley stated that large components would require larger trucks to deliver them. They are talking about big trucks and the picket fence and if a long box truck could turn around in the parking area.

Bentley stated they do not think there should be any ammunition on site because there would be no need with test firing being done in MA. The mere assembly is not the problem but when you expand the envelope to have the ammunition on site. The only reason to have the ammunition on site would be to fire the gun and because that would be done in MA that quantity of ammo is not necessary. Assembly would be consistent with the Home Occupation ordinance but when you add the other aspects is goes beyond the scope allowed.

Hodgkins was asked to clarify the need for the bunker. He advised that the bunker had been addressed before and it may be done some time in the future. It was worked out with the Fire Chief. The parking is ample and would accommodate more than 8 off street parking spaces and there would be no problem for UPS or FED EX trucks to turn around in the parking area. There would be no tractor-trailer trucks coming in.

Hodgkins advised he has a copy of his Federal Firearms License (FFL) that is on file with the police department. Under his license he is a Type 07 manufacturer that gives them license to assemble all firearms except destructive devices. They can assemble all firearms. They are not machining any components but the components would be shipped in and assembled on site. Hodgkins advised they have done assembly on site already. Manufacturing is noted on the license but in reality it is bits and pieces put together as light assembly. These are sold to police departments and licensed individuals. Part of the business is wholesale, retail sales at gun shows and licensed individuals by appointment. He is required to run checks before sales to individuals. There is no storefront and no 9 to 5 retail store.

Riendeau asked if there were any regulations regarding the storage of ammunition. Hodgkins stated that as Bevis had informed the Board in March this would be a much safer way to store the ammunition. Hodgkins advised he would be selling ammunition at gun shows and to police departments. He stated he does not need a license to do that and it could be sold from the basement of your house. They would not be manufacturing ammo. Riendeau stated that they couldn't do that without a permit from the ZBA if it fit the criteria for the Town.

Hodgkins stated the only thing of issue would be that the Bialowskis could see the parking area from their driveway but not from their home. He screened the area by putting in a picket fence as well as shrubbery. If he has to put in a 6 ft fence, he would do that. The Board reviewed the revised sketch he had presented.

Riendeau asked if there are State guidelines for storing ammunition. NH has no guidelines but ATF has guidelines on how to store it. There would be 25,000 rounds of small arms ammo on the site for 50 caliber and down. He would be specializing in 556, M4, 9MM, full-auto and suppressed weapons. All components are under lock and key and the storage is inspected by ATF who has approved him for a license.

The location of the conex has been changed to behind the barn. This is a storage container such as the police department has. He plans on using 16 x 20 ft container. Riendeau asked for clarification of shooting the firearms. It was discussed shooting into a water barrel. Hodgkins stated it was suggested at the last meeting. He would not be shooting the assembled arms outside into the bank but using a water barrel indoors and it would be inaudible outside. Riendeau asked if he was going to shoot the arms on site or not. Hodgkins stated that it is within the law for him to do that. Riendeau stated that it was his testimony at the first meeting that test firing would be done in the MA facility and the only firing onsite would be recreational. Is that Hodgkins intention that those firearms that are not registered to Hodgkins and are for resale would not be fired on that site? Hodgkins stated that they had discussed at the last meeting if it would make people feel more comfortable, he would fire into a water barrel. He got nods from the Board. If Hodgkins so chooses to fire onsite they would shoot into a water barrel.

Riendeau asked how that would mitigate the noise. Hodgkins stated that if they were to fire inside this building into a water barrel you would probably not hear it outside if the windows were closed and the building were insulated. Hodgkins proposes to place the water barrel inside the shop as noted on the plan. He stated he also has bullet traps onsite that he uses for his personal weapons but he could use it for the business and it is a safe means of testing. Hodgkins stated if he were required not to test onsite he wouldn't but he would like to test onsite.

Fales stated that she thought he was not allowed to test on site. Hodgkins stated his insurance wouldn't let him take a client out back to test fire. Hodgkins stated that it is his constitutional right to fire on his own property. Riendeau stated that the business on the site is not his right and the Board is trying to help him but asks what is more valuable to Hodgkins, to have your business there, with the understanding that we know we cannot deny you your recreational firing but there could be a code enforcement issue in regard to firing arms whether it is his personal firearms or one that was assembled there. It gives the Town some measure of comfort if the owner of the business realizes that there may be an issue and if it may not be that big of a deal to you just to flat out say that if that is going to be the thing that denies us then they will not fire onsite but would do it in MA. Hodgkins stated that if the Board does not want testing done there he would say fine and would make other arrangements. He feels he has gone out of his way to meet everyone's requests and have done what is required of him all along. Souza stated that part of the test firing onsite would give opportunity to make adjustments after assembly if it were necessary while he has the

tools available instead of assembly and then going to MA to test fire and having to take the gun back to make those adjustments. It is part of the assembly process.

Fales stated that the guns would be stored inside and it was talked about last time. The abutters questioned whether they would be stored inside or out. The testimony at the first meeting is that the guns would be stored in a safe in the barn. Hodgkins stated that the outside storage unit would be for parts, equipment or even his lawn mower. He stated that several of his neighbors have similar storage units on their property.

Bentley stated that in Hodgkins' response he advised he had already made arrangements for the safe storage of firearms and ammunition at the location. He has yet to hear what those arrangements are. Hodgkins advised that his shop is located in the barn and is secured. ATF has already inspected the site.

Bentley stated that if the bunker/storage container were not to be done now as indicated by Hodgkins but may be in the future that the Board not approve it now but require that Hodgkins come back with a further application before this Board.

Secondly, Bentley stated that his application does not state the onsite storage of ammo to be sold at gun shows. The application doesn't say anything about onsite storage of ammo for any purpose. Hodgkins had stated that he wanted to have this available to sell at gun shows. He has not asked the Board for this in his application and the Board should not allow that either. On page 4 of the March 20th minutes, it was noted that Hodgkins was not interested in retail sales at his home. Now retail sales would occur by appointment.

Bentley stated that he heard Souza's comments regarding firing the assembled unit once before you take it to MA to make sure it works but again in that paragraph it states that ATF does not allow testing of firearms on site but must be done in MA. If that is the way the business works the Board should not allow it here. Bentley stated that Hodgkins is operating under a misconception that if ATF says how this is the way the business should be run that is how it should be run in the Town of Chesterfield. He is confusing the two and this Board has the right to protect the citizens of Chesterfield and to enforce the ordinances of the Town of Chesterfield.

Riendeau stated that the reason we are talking about the bunker because in March Hodgkins was granted to have that. Riendeau stated that this is not his application tonight to modify his decision in March; it is the rehearing for the abutters to ask the Board to reconsider. He had noted back in March it was not to be put in immediately but was something he wanted to do in the future and was granted it. Bentley stated that procedurally it is his understanding that if a motion for rehearing is granted; the Board essentially starts off with a clean slate. Riendeau stated that perhaps they weren't doing the protocol correctly because usually it is the applicant who has been denied that requests the rehearing. Bentley stated that at the beginning of the meeting Riendeau had put forth how the meeting was to be run and as the Chair and that is all right by him. Bentley believes that with any presentation anything could be brought up that has relevance and he has asked his clients not to rehash issues or stand up and repeat what Bentley has already stated.

Cay asked what the fair market value was of 25,000 rounds of ammunition. Hodgkins advised it would depend on the caliber. It could range from several hundred to thousands. Souza stated that 25,000 rounds of 9 MM would be approximately 14 in wide x 6 in high x 6 ft. This would easily fit in the storage unit will room left over for parts or whatever he wants to lock up.

Perkowski stated that it makes sense to him that if you were assembling a weapon for sale you would test it to prove its functionality. Not sited in the back yard but inside where it would 1) protect everyone and 2) not emit any noise. If he were a neighbor the two things he would be concerned about are noise and shooting. If he were to see a conspicuous storage unit in the front yard he acknowledges that he would have a hard time selling his property, however, if the storage unit were screened and is a reasonable size there shouldn't be a difficulty. He believes that property owners have the right to use their property how they choose as long as it does not infringe on the rights of others.

Perkowski stated that the Board put a one-year conditional approval on the application giving the Board a chance to pull the approval if there are good reasons given by the Code Enforcement Officer or Police and the neighbors are having difficulty and that is why the Board has put that time frame on it.

Darren Gerber, abutter, advised his concerns were the changing the character of the neighborhood (402.1 Section C) and this project being detrimental to the neighborhood (601.3 Section B). He noted that at the March meeting 5 of the 6 abutters present were against this proposal. He sees his property as his biggest asset and this would affect the value of his property value. Gerber asked if as of today is Hodgkins allowed doing manufacturing on his property. Cay advised that as of today he does not have a permit and it is held in abeyance while this is pending. He is not allowed to run a home occupation there at this time. Gerber stated that earlier in the meeting Hodgkins stated he has done assembly on the property and if he is indeed doing this it is illegal and if he is doing that now what else may he do that is illegal in the future.

Hodgkins stated he has not sold firearms from that location but there has been light assembly there. Hodgkins stated he had to leave a contract to come home to deal with this issue and it has cost him \$10,000 and has put a 5-year \$750,000 contract in jeopardy. He is in a very financially tough spot right now. Bentley stated that as the Board knows, the economic consequences of an applicant are not relevant to the approval of the application. Riendeau agreed.

Bentley stated that a container whether out in the open or behind the house is not normally associated with residential use. Hodgkins stated that the Bialowskis have one in their yard. Bialowski asked how Hodgkins knows that. Hodgkins stated that you could clearly see it from the property line. He has seen it on a satellite image. The Bialowskis stated that not everyone has access to satellite photos. Hodgkins stated anyone could get it on the web.

Mrs. Bialowski asked if he was doing the manufacturing on the property now. Riendeau stated that it seems as he is doing some light assembly that is not on the books at this time and doesn't know what that means. It could be an enforcement issue but we are not a police state and do not go in peaking in people's windows just to see if people are doing what they

are suppose to be doing. If there is a resident in Town who has a question they can always come into the Town Offices and formally submit a complaint regarding illegal activity going on.

Cay asked if there were any abutters here that are in favor of the application. No abutters present were.

Perkowski moves to close the public portion. Davenport seconded the motion, which carried unanimously.

The Board discussed that Bentley was correct in stating that an application that is being reheard could cover issues previously covered in the initial public hearing. The minutes from the previous meeting however, could be noted to move the process along.

Fales stated she thinks the screening should be fixed. Riendeau didn't think the intention of the ordinance was to screen a residential parking area but for a dump truck or large equipment storage to have that area buffered. Cay stated that is where judgment comes in, looking at the intended use and does it warrant screening or not and if it is non-residential in nature. It was noted that UPS or Fed Ex are only 90-second stops. Fales read the ordinance regarding the screening. Intensity of use may warrant screening if there is more traffic than usual.

Perkowski stated if the large container were in the front it would require screening but as it is behind the house and barn it is naturally screened. Riendeau stated the business would be by appointment and not coming and going everyday. He does not see the intensity of use in this case.

Perkowski stated that beyond the screening they are talking about safety and noise. Noise doesn't seem to be an issue if they are firing indoors. Riendeau asked is the consensus of the Board to allow test firing of assembled weapons there. Perkowski stated testing the functionality of the firearm in a test chamber. He stated that if you can't see it or hear it would you care? Riendeau stated that the abutters care. Riendeau asked do gun shows change the application and make it different from assembly and sales.

Cay stated as Bentley had suggested they would be going down a slippery slope. First you start with assembly and by conventional Home Occupation definitions maybe assembly is a traditional use for Home Occupation. Then as you get to higher intensity with storing ammunition and you have occasional clients for retail sales out of your house. You're test firing and you're an avid gun person so you are regularly firing in the backyard. There wasn't testimony to that tonight but there was with the initial hearing.

At some point the intensity of use has impacted neighboring properties. Whether its perceived or real it would be reflected in arms length real estate transactions. You have to decide how far to go down that slope but Cay believes it is a slippery slope. You look at the good faith of the applicant to determine if its not working; is the applicant going to do the right thing to adjust to make it work. In the first go around Cay asked the applicant if he would stop shooting at that location, and he asked it several times, and the answer was clearly no, that's my God given right. Tonight we heard his testimony that it is his God

given right to do these things and it is as a personal right but it is not as a Home Occupation or a business. Hodgkins is not recognizing that he has to make some concessions to folks in the public to make this work in a community proposition. Cay is not seeing good faith on this side. Riendeau stated that tonight when asked if firing of arms were not acceptable would that be all right and Hodgkins stated yes which is not the testimony given in March but has stated that if it were part of the condition he would accept that.

Cay stated there is also the container issue, the retail sale issue and the screening issue and here we go down the slippery slope. Riendeau asked if a Home Occupation could have retail sales. The pottery shop was brought up and it was noted that they have retail sales on a regular basis but cannot have signage out on Route 9.

Cay stated when you address the issue of retail it is a question of intensity and so is a hairdresser selling shampoo etc. Riendeau stated that he understands Hodgkins' retail intensity is very minimal because he would sell by appointment only and he's gone most of the time. Cay asked if it were clear that the hairdresser, as long as it is a reasonable venture would not diminish your property value? And is it also clear that at some point a gun shop and operation would diminish your property value? Riendeau stated that a day care is a problem with 20 kids outside screaming all summer long is annoying after a while. He said as innocent as that is, it gets annoying and having cars come twice a day.

Perkowski stated he likes the idea of the one-year probationary period. If it's not operated in good faith when the year is up then the Board pulls the permit. We have the tool in place to retrieve it. Cay stated that you do and you don't. If it's gone that far then we have failed as an oversight board to anticipate the problem and determine at what point have you crossed the line. You are then putting the burden on code enforcement and the police officer because we haven't addressed it. The Board needs to have in its mind what's ok and what's not. Cay stated in his own mind the only thing that is ok is the assembly of weapons and on a modest basis. He stated the slippery slope you go down is that sure you can shoot the gun in the backyard for personal use and a retail customer comes in and wants to see the gun shot they are going to see the gun shot regardless of whose hand it is in. You are setting up a situation where it is doomed to fail and impact the neighbors.

Perkowski asked for clarification of what "by appointment only" means. Is it an individual, 10 individuals a week, a police department from New York? Cay asked if you administer gun home occupations that have contracts for \$750,000 out of your home in Spofford NH. Perkowski believes there are but it was noted that these are not from their home. Cay stated it is intensity of use that is in question. It was noted that the \$750,000, what portion is the consulting part of the business and it is a 5-year contract. That is one contract but how many contracts are administered a year. It is intensity of use that is the question. Perkowski stated that if it is a flourishing business then it is no longer a Home Occupation and would have to be moved to an industrial area. Cay stated that is the spirit and intent of the ordinance, to shepherd business that are more suitable elsewhere to go there.

Perkowski asked if the Board was ok with the assembly of weapons. The consensus is that the Board agreed that was acceptable. Screening issues, large quantity of ammunition issues? The State laws give no regulations on the amount of ammunition. Davenport stated that people in Town have a lot of ammunition. Fales stated that Bevis had testified that it

was safer to know where the ammunition was and noted an incident where a keg of black powder was found in a basement after a fire. It was noted that the container was not just for ammunition storage but other things as well such as receiver parts.

Fales read the State law regarding firearms and ammunition, RSA 207:59. The number of rounds of ammunition is not regulated. Bevis may have gotten the 25,000 number from the fire codes.

Cay stated it is the magnitude of the venture that takes it out of the Home Occupation category. If you are going to allow it as a home occupation then you better keep the scale of it down drawing the line at assembly of firearms. The Board discussed how do you differentiate between personal and what goes with the business. Cay stated that if you have an avid gun shooter that likes to shoot every week, every family party and on a regular basis and isn't going to deviate from that despite the neighbors objections, you have a problem. Fales noted that Hodgkins' e-mail stated he hasn't shot on the property since the last meeting.

Davenport stated that there are two issues, respect of the neighborhood and your neighbor. In utilizing your constitutional right to bear arms, which she does, there is a way to do it and a way not to do it. No one has the right to tell her that she can't have a permit and gun and fire it if she chose to fire it in the proper way at her residence. That is one issue she is hearing tonight. She was not present at the initial hearing.

Cay stated that it is everyone's God given right in this country to exercise what was stated and that is not contested here, however, when you combine that with a retail operation that assembles firearms, tests firearms, sells firearms and ammunition then you put a hot keg together with that God given right. You have to ask yourself are you creating a problem for your neighbors. If you are not as a governing body looking after the interests of those neighbors first then you are not doing your job. Is this use going to negatively impact those neighbors?

Davenport stated that if the Board denies this application tonight there would still be an issue here with those neighbors and that is not something the Board could control. Cay stated that is right, however, what does that lead to if he cannot have his business there. The pressure is for him to seek an alternate solution, whether it is a commercial location in Town or in Mass or whatever it is. It forces the issue to address it and seek an alternative. The personal gun shooting could still be done if he chooses to live there.

Perkowski believes the Board has a control with the one-year probation. If the Board feels that he has not been a good neighbor and this manufacturing has gone down that slippery slope to a point where it is more than the Board allowed, we have the tool to retrieve it. Now we have set out a rule and want this to have as minimal impact as possible and if in a year from now we find there is more impact than should be allowed in a rural neighborhood then any investment made in the building, storage container or whatever they have done will be lost because they will have to move it or cease and desist. There would no signage indicating to people a gun shop for people to just stop by. Cay stated there was to be a sign. Perkowski stated that it sounds like a specialty where people would need special license to purchase. Fales stated it sounds more of the consulting part too.

Perkowski noted that the neighbors would be alert to any disturbance from the business and they will be filing complaints. He thinks it may be quieter there with the right to manufacture than without it.

Riendeau asked how to address the value of the properties and whether it would drop the value or not. He believes it would be hard to measure the affect of this occupation in a residential zone. Fales stated that when you go to buy a house next to this how would you know what is there. Cay mentioned talk to a neighbor. Perkowski stated that most people that shoot firearms are considerate of their neighbors. Fales said it might affect some and not others so how can you make a judgment on that. Cay stated that is it exactly and so who is the burden on. If you are shifting burdens, whom are you trying to protect.

Other retail gun sales businesses were noted; Holman Hill Rd. Cay noted that there were not any abutters complaining.

Riendeau stated that he agrees with Davenport that it is a separate issue, personal firing of guns and understands Cay's point of the personal and business meshed together because he has a business that is related to a hobby that he does. Riendeau still looks at it separately. It doesn't require a storefront for what he wants. This is a Home Industry he is requesting. Cay stated that this category was added to address the large equipment on the lot. Cay asked why is this not allowed in the Spofford Lake District. The ordinance doesn't allow for the higher intensity home occupations in the SLD so it speaks to given certain densities you don't want certain activities there. Riendeau stated that this is the largest zone being R/A.

Riendeau stated he would like to see the restriction of not firing the assembled product on site. This would give the separation from the personal and business. It may be difficult to police that but may give some relief to abutters knowing that condition. It was noted that the insurance company doesn't allow test firing on site with the customer. The functionality test was allowed at the end of the last meeting in a water barrel.

Did Electro Sonics affect the property values? This has the potential that in hearing the gun-firing going off the new abutting owner could be upset because he did not have the ability to check the Registry regarding this business. Fales stated he could be firing weapons without a business. Riendeau stated that he doesn't know how much it would affect property values if no testing on site was allowed of the assembled arms. Do pig farms affect property values? It was noted that a pig farm could affect property values more.

Riendeau moved to grant the Special Exception for the Home Industry to allow the Security Consulting business and the assembly of Firearms that he is allowed by the licensing of ATF with the understanding that we realize that there will be retail sales by appointment only to customers, there will be properly stored ammunition as regulated by ATF. Hodgkins must meet all ATF requirements. If he elects to put in an ammunition storage bunker it would be located as indicated in the new site plan filing. This shows the storage unit behind the barn and would be buffered from sight from roadway and abutters. We find that the buffering out front along Route 63 for the parking area currently with the fence on one side and stockade fence on the east side is sufficient. The buffering of that parking area for a residential area seems to be adequate at this point with the intensity of use they were talking about with vehicles coming in and out of the parking area.

There will be no firearms shooting at that location associated with the business or with customers that are related to the business on site. We leave the provision where we will review this application within a year's time of this date to make sure that the intensity and use of this application hasn't exceeded what this Board has perceived it to be and also give opportunity for testimony from either our Code Enforcement Officer or other Town officials and abutters to address issues because of the Town.

Perkowski seconded the motion, which carried by majority vote. (4-Yes: Davenport, Perkowski, Fales, Riendeau - No: Cay)

2. Request to rehear Rodney Parsons' request for a Special Exception under Article 204.3 Section A, Home Industry Article 402.4 to permit a landscaping and snow removal business. The property is located at 105 Lincoln Rd, Spofford (Map 3 Lot B8.1) Rural/Agricultural Zone. This application was denied on 5/8/07.

Parsons was not at the meeting. Riendeau advised that the Board would review his request for rehearing and public testimony would not typically be taken. There were several abutters present interested in the procedure.

The Board reviewed Parsons request for reconsideration. Riendeau stated that this is a service business and Parsons says that the home occupation doesn't apply to him but the ordinance says products or services that may be conducted accessory to a dwelling by the resident at that location. Fales stated Parsons' request notes that horticultural enterprises are permitted in the R/A zone. The Board looked up the definition of horticultural and finds that it is the cultivation of plants. The Board sees lawn mowing and snow plowing a stretch for a horticultural business. The Lawson greenhouses were noted as an example. The intent of the ordinance was to apply to farms in the area.

Perkowski stated he doesn't see it as a horticultural enterprise but that they have got equipment storage, maintenance of equipment and you go to wherever the work is. Cay stated that any business even if permitted doesn't exempt you from a permit. In the commercial zone it lists the permitted uses and doesn't note if you have to get a permit or not. Commercial enterprises need a permit.

Riendeau stated that the fact that Rodney wasn't an owner of the business disqualified this application as a Home Business. The motion made denying the application notes the intensity of the number of employees but also that Rodney was not an owner. Riendeau thought Parsons would be here tonight with paper work showing his ownership in the business.

Riendeau stated that he had specifically asked Parsons if he was contesting the Code Enforcement Officer's requiring his application to the ZBA. Parsons advised in his appeal that the Board did not address this. The minutes reflect that Parsons was asked and he requested that the Board rule on the application. It was noted that no business in Town was grandfathered and all had to come before the Board. Cay stated that Parsons questions the wording of the ordinance but chose not to make that argument that night.

Riendeau ask if the Board saw anything that rings out a rehearing. The consensus of the Board was no. Riendeau stated that Parson next step could be coming with a new application proving he is an owner of the business but there were other issues in regard to intensity that would have to be addressed. Cay stated that he also has the right to appeal to Superior Court. Riendeau stated he sees nothing that changes his mind about the way the application was heard the first time. If the Board feels they have made any errors in the decision they could have a rehearing to have the opportunity to correct them.

Riendeau stated that Parsons had taken Perkowski's comment out of context when he noted that if this were an 80 acre piece of land this wouldn't be an issue. Perkowski meant that no abutters would have brought this to attention the way they did, not that the Board would have discriminated against him because it was a smaller lot. Perkowski stated that it wouldn't be disturbing the neighbors if it were 2,000 ft away. If you are on a one-acre parcel and start up a diesel engine early in the morning it may bother the neighbors.

Cay moved to deny the rehearing request on the basis that there is no new evidence brought forth and we don't find a reason to clarify the record or correct any errors. The rehearing request is denied.

Fales seconded the motion, which carried by unanimous vote. (Yes: Perkowski, Fales, Davenport, Cay & Riendeau)

Rian Peloquin asked what would happen now procedurally. The Board advised that at the last meeting that when denied the Code Enforcement Officer would issue a Cease & Desist order and would typically give 90 days. A copy of the Notice of Decision will be given to Greenwood when it has been signed.

3. Review 5/8/07 and 5/10/07 Meeting Minutes

- **May 8, 2007** – Perkowski moved to approve the meeting minutes. Davenport seconded the motion, which carried unanimously.
- **May 10, 2007** – Perkowski moved to approve the site meeting minutes. Cay seconded the motion, which carried unanimously. It was noted that though the minutes are brief, the reasoning of the decisions is included in the motions as well as the May 8th meeting minutes.

4. Other

- **New postage rates** - \$5.21 per certified – Presently the cost to the applicant is \$5 per certified sent. They are not charged for the notice of decision certified. The application fee is \$50 to cover processing charges and advertising.

Cay moved to increase the certified postage to the actual rate that is currently \$5.21 per certified mail. It would be increased as postage is increased. The notice of decision will also be included in calculating the number of certified required. Davenport seconded the motion, which carried unanimously.

The Board asked Ross to gather data for review in regard to the application fees. This data would include the required newspaper noticing costs.

- **Nine A court case** – Cay had had the opportunity to read the Court’s findings and gave an overview to the Board.
- **Seasonal Use change to year round** – Upon review the consensus of the Board is that the Chesterfield ordinances cover the information submitted by Mullins.

5. Information

- Greenwood memo re: Article 300.4 (c)
- Greenwood memo re: 313 River Rd, WC

The Board reviewed the memos and suggest that RSA 674:32 should be reflected in the Chesterfield Zoning Ordinances under Article 300.4 as Section D. Greenwood will get the information to the Planning Board.

6. Adjournment: The Board adjourned at 10:55 p.m.

Respectfully submitted,

Carol Ross
Secretary

Approved:

Burton Riendeau
Chairman
Zoning Board of Adjustment

Date:_____