

**Town of Cumberland
Board of Adjustment and Appeals
Minutes of Meeting
June 8, 2006**

Present: R. Scott Wyman, Adrian Kendall, Pete Wilson, Matt Manahan, Sam Wilkinson

Absent: Ron Copp, Mike Martin, Andrew Black

Staff: William Longley, Code Enforcement Officer, Pam Bosarge, Clerk

The meeting was called to order at 7:05 p.m.

Mr. Wyman welcomed the applicants and gave an overview of the rules of procedure for the meeting. Stating there would be opportunity for public testimony.

Hearings and Presentations:

Items 1 & 2 were reversed.

1. Special Exception: Lorna Copp requests a special exception to operate an embroidery business as a home occupation at 37 Upper Methodist Road, Tax Assessor Map R07A, Lot 9 in the Industrial (I) district; Clifton H. & Lorna M. Copp, Owners.

Mr. Longley stated the zone of the property at 37 Upper Methodist Road is in the Rural Residential 2 (RR2) district, it was mistakenly advertised as the Industrial Zone.

Ms. Lorna Copp applicant stated she wanted to have an embroidery business in her home. There would be no sign, and the business would not create any traffic. She would not have people coming to her house, she would deliver products.

Mr. Wyman asked if she would be monogramming.

Ms. Copp stated yes, she intends to monogram items for small businesses; such as hats, coats, shirts etc.

Mr. Wyman asked if there would be any employees.

Ms. Copp stated no.

Mr. Wyman asked about the equipment required for an embroidery business.

Ms. Copp stated she will lease an embroidery machine, which looks like a large sewing machine.

Mr. Kendall asked if there would be a showroom.

Ms. Copp stated no, she will deliver items to customers; there will be occasional deliveries from UPS.

Mr. Manahan asked where in the house the business would be located.

Ms. Copp stated the embroidery machine will be located in the basement.

Mr. Manahan asked about the size of the embroidery machine.

Ms. Copp stated approximately the size of the podium in the council chambers, the embroidery machine looks like a large sewing machine with multiple spools of thread.

Mr. Manahan asked about noise.

Ms. Copp stated the machine is not very loud, and would not be heard outside of the house.

The Board reviewed the Special Exception standards, Section 603.2.3 with the following findings:

.1 The proposed use will not create hazards to vehicular or pedestrian traffic on the roads and sidewalks serving the proposed use as determined by the size and condition of such roads and sidewalks, lighting, drainage, intensity of use by both pedestrians and vehicles and the visibility afforded to pedestrians and the operators of motor vehicles;
There will be no traffic generated from the business, and will not create hazards to vehicular or pedestrian traffic.

The Board found this requirement to be satisfied.

.2 The proposed use will not cause water pollution, sedimentation, erosion, contaminate any water supply nor reduce the capacity of the land to hold water so that a dangerous, aesthetically unpleasant, or unhealthy condition may result;
There will be no water pollution caused by the proposed embroidery business.

The Board found this requirement to be satisfied.

.3 The proposed use will not create unhealthful conditions because of smoke, dust, or other airborne contaminants;
There will be no unhealthful conditions generated by the proposed business. .

The Board found this requirement to be satisfied.

.4 The proposed use will be compatible with the uses that are adjacent to and neighboring the proposed location, as measured in terms of its physical size, intensity of use, visual impact, and proximity to other structures and the scale and bulk of any new structures for the proposed use shall be compatible with structures existing or permitted to be constructed on neighboring properties;
The proposed use will be compatible with uses that are adjacent to and neighboring the residence. The proposed business will have an embroidery machine, which will be located in the basement of the dwelling.

The Board found this requirement to be satisfied.

.5 The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration or fire hazard or restrict access of light and air to neighboring properties;
There will be no glare, fumes, or noise that would create a nuisance to the neighboring properties.

The Board found this requirement to be satisfied.

.6 The proposed location for the use has no peculiar physical characteristics due to its size, shape, topography, or soils which will create or aggravate adverse environmental impacts on surrounding properties;

The proposed use will not create environmental impacts on surrounding properties.

The Board found this requirement to be satisfied.

.7 The proposed use has no unusual characteristics atypical of the generic use which proposed use will depreciate the economic value of surrounding properties;

The proposed use will not depreciate the economic value of surrounding properties.

The Board found this requirement to be satisfied.

.8 If located in a shoreland zone, the proposed use (i) will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat; (ii) will conserve shoreland vegetation; (iii) will conserve visual points of access to waters as viewed from public facilities; (iv) will conserve actual points of access to waters; (v) will conserve natural beauty and (vi) will avoid problems associated with flood plain development and use.

[Amended, effective 12/2/86]

The Board determined the property is not in a shoreland zone.

In addition, Section 603.2.7 was reviewed with the following findings.

In addition to the standards contained in Section 603.2.3, all special exceptions must conform with the performance standards set forth herein. No use already established on the date of adoption of this ordinance shall be so altered or modified as to conflict with or, if already in conflict with, to further conflict with these performance standards.

.1 The volume of sound, measured by a sound level meter and frequency weighting network (manufactured according the standards prescribed by the American Standards Association), inherently and recurrently generated shall not exceed a maximum of 60 decibels at lot boundaries, excepting air raid sirens and similar warning devices;

The embroidery machine will not create noise that will exceed 60 decibels at lot boundaries.

The Board found this requirement to be satisfied.

.2 Vibration inherently and recurrently generated shall not exceed a peak particle velocity of .01 inches per second at lot boundaries;

There will be no noise or vibration generated by the embroidery machine.

The Board found this requirement to be satisfied.

.3 No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by regularly recurring natural causes or forces, and all materials which cause fumes or dust, constitute a fire hazard, or are edible or otherwise attractive to rodents or insects if stored out-of-doors shall be in closed containers;

There will be no wastes generated by the proposed use that would transfer beyond lot boundaries.

The Board found this requirement to be satisfied.

.4 The emission of noxious, odorous matter across lot boundaries in such quantities as to be offensive to persons of ordinary sensibilities is prohibited; and

There will be no odors from the proposed use of the property.

The Board found this requirement to be satisfied.

.5 No discharge into any private sewage disposal system, or stream or into the ground of any materials in such nature or at such temperature as to contaminate any water supply or otherwise cause the emission of dangerous or unhealthful elements is permitted, and no accumulation of solid waste conducive to the breeding of rodents or insects shall be allowed. [Amended, effective 12/2/86]

There will be no discharge into the septic disposal system with the proposed use.

The Board found this requirement to be satisfied.

In addition, Section 414.1 was reviewed with the following findings.

414.1 Any home occupation such as arts and crafts work, dressmaking, tutoring, music teaching, and the use of a portion of a residential building as a bed & breakfast inn, day care home, or as the office of a physician, dentist, lawyer, engineer, architect, hairdresser, barber, real estate broker, insurance agent, accountant or similar uses may be approved as a special exception by the Board of Adjustment and Appeals if: [Amended, effective 12/13/89]

.1 The occupation of an office will be managed by a member of the family residing within the dwelling unit. Up to two employees who are not members of the family may be employed in a home occupation, and;

The proposed use will be managed by the homeowner.

The Board found this requirement to be satisfied.

.2 The occupation or office will be located wholly within the principal or accessory structures, and;

The proposed use will be located wholly within the principal dwelling.

The Board found this requirement to be satisfied.

.3 Exterior displays, exterior storage of materials, and exterior indication of the home occupation will not be permitted except for signs as may be specifically provided for by the Board of Adjustment and Appeals and as may otherwise conform to the conditions of this Ordinance; and

There will be no sign.

The Board found this requirement to be satisfied.

.4 Noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare will not be detectable beyond property limits, and;

There will be no noise, vibration, smoke, dust, or glare that will be detectable beyond the property limits.

The Board found this requirement to be satisfied.

.5 Off-street parking spaces will be provided in an amount to be determined by the Board as necessary to avoid street congestion.

The proposed use will not require parking spaces.

The Board found this requirement to be satisfied.

414.2 The granting of a special exception approval for a home occupation shall apply to the applicant only while the applicant resides at the property.

The Copp's reside at the property; and the proposed use will not continue if the applicant ceases to reside at the property.

The Board found this requirement to be satisfied.

Mr. Wyman asked for testimony from the public in support of the application, there was none. Mr. Wyman asked for testimony that was in opposition, there was none. He asked for testimony that was neither for nor against but on a neutral basis. There was none. The public portion of the meeting was closed.

Mr. Kendall stated this is a classic example of a Home Occupation which has zero impact on neighbors, and stated he was in support of the application.

Mr. Kendall moved to approve the request of Lorna Copp for a special exception to operate an embroidery business as a home occupation at 37 upper Methodist Road, Tax Assessor Map R07A, Lot 9 in the Rural Residential 2 (RR2) district.

Mr. Wilson seconded.

VOTE: Unanimous

2. Special Exception: Suburban Little League request a special exception to add a storage structure and relocate other buildings at the Drowne Road School; Tax Assessor Map R03, Lot 51A, in the Rural Residential 1 (RR1) district; Bill Hawkinson, Representative, Town of Cumberland, Owner.

Mr. Bill Hawkinson, representative stated in an effort to improve the facilities they wish to build a similar “crow’s nest” building behind home plate; this will house supplies and a scorekeepers booth. Currently the Suburban Little League rents a container by the dump for storage of equipment. The building of this structure will eliminate the need for the storage container.

Mr. Wyman asked about the construction of the building.

Mr. Hawkinson stated it will be wood T 1-11 siding, with vinyl shingles, on posts with sona tubes.

Mr. Wyman asked about the re-location of the existing sheds.

Mr. Hawkinson stated they are re-visiting that issue; they may leave the existing shed and just construct the “crow’s nest”. The current shed has electricity and to move the building and electricity would add costs.

Mr. Manahan asked how this request fit as a special exception.

Mr. Longley stated as a Municipal Use.

Mr. Wyman asked if the Suburban Little League was insured for liability.

Mr. Hawkinson stated yes.

Mr. Manahan and Mr. Kendall suggested this request as a Municipal Use go on the list of ambiguities in the Ordinance.

Mr. Kendall suggested that Recreational Uses be re-inserted into the Ordinance.

Mr. Wyman asked about field maintenance.

Mr. Hawkinson stated the Suburban Little League has installed drainage at the Bailey Field, and painted the dugouts, they maintain these fields and the North Yarmouth fields. The Board reviewed the Special Exception standards, Section 603.2.3 with the following findings:

.1 The proposed use will not create hazards to vehicular or pedestrian traffic on the roads and sidewalks serving the proposed use as determined by the size and condition of such roads and sidewalks, lighting, drainage, intensity of use by both pedestrians and vehicles and the visibility afforded to pedestrians and the operators of motor vehicles; There will be no additional traffic; posts will be placed at the edge of the asphalt to prevent vehicles from entering the ball field.

The Board found this requirement to be satisfied.

.2 The proposed use will not cause water pollution, sedimentation, erosion, contaminate any water supply nor reduce the capacity of the land to hold water so that a dangerous, aesthetically unpleasant, or unhealthy condition may result; There will be no pollution or water contamination created by the expansion to the ball field.

The Board found this requirement to be satisfied.

.3 The proposed use will not create unhealthful conditions because of smoke, dust, or other airborne contaminants;

The use will not create any unhealthful conditions.

The Board found this requirement to be satisfied.

.4 The proposed use will be compatible with the uses that are adjacent to and neighboring the proposed location, as measured in terms of its physical size, intensity of use, visual impact, and proximity to other structures and the scale and bulk of any new structures for the proposed use shall be compatible with structures existing or permitted to be constructed on neighboring properties;

The use will be compatible with the neighborhood; this is an expansion of an existing use.

The Board found this requirement to be satisfied.

.5 The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration or fire hazard or restrict access of light and air to neighboring properties;

The use will not create nuisances to the neighborhood; this is an expansion of an existing use.

The Board found this requirement to be satisfied.

.6 The proposed location for the use has no peculiar physical characteristics due to its size, shape, topography, or soils which will create or aggravate adverse environmental impacts on surrounding properties;

The expansion is to an existing ball field, with no peculiar physical characteristics.

The Board found this requirement to be satisfied.

.7 The proposed use has no unusual characteristics atypical of the generic use which proposed use will depreciate the economic value of surrounding properties;

This is an expansion of an existing use; with no unusual characteristics atypical of the proposed use.

The Board found this requirement to be satisfied.

.8 If located in a shoreland zone, the proposed use (1) will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat; (ii) will conserve shoreland vegetation; (iii) will conserve visual points of access to waters as viewed from public facilities; (iv) will conserve actual points of access to waters; (v) will conserve natural beauty and (vi) will avoid problems associated with flood plain development and use. [Amended, effective 12/2/86]

The Board determined the property is not in a shoreland zone.

In addition, Section 603.2.7 was reviewed with the following findings.

In addition to the standards contained in Section 603.2.3, all special exceptions must conform with the performance standards set forth herein. No use already established on the date of adoption of this ordinance shall be so altered or modified as to conflict with or, if already in conflict with, to further conflict with these performance standards.

.1 The volume of sound, measured by a sound level meter and frequency weighting network (manufactured according the standards prescribed by the American Standards Association), inherently and recurrently generated shall not exceed a maximum of 60 decibels at lot boundaries, excepting air raid sirens and similar warning devices;

There will be no additional noise created.

The Board found this requirement to be satisfied.

.2 Vibration inherently and recurrently generated shall not exceed a peak particle velocity of .01 inches per second at lot boundaries;

There will be no vibration generated by the use.

The Board found this requirement to be satisfied.

.3 No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by regularly recurring natural causes or forces, and all materials which cause fumes or dust, constitute a fire hazard, or are edible or otherwise attractive to rodents or insects if stored out-of-doors shall be in closed containers;

There will be no materials or wastes associated with the use of this property.

The Board found this requirement to be satisfied.

.4 The emission of noxious, odorous matter across lot boundaries in such quantities as to be offensive to persons of ordinary sensibilities is prohibited; and

There will be no noxious, odorous matters across lot boundaries.

The Board found this requirement to be satisfied.

.5 No discharge into any private sewage disposal system, or stream or into the ground of any materials in such nature or at such temperature as to contaminate any water supply or otherwise cause the emission of dangerous or unhealthful elements is permitted, and no accumulation of solid waste conducive to the breeding of rodents or insects shall be allowed.

[Amended, effective 12/2/86]

There will be no discharge into the ground to contaminate any water supply.

The Board found this requirement to be satisfied.

Mr. Kendall asked if the games would have a PA system for amplification.

Mr. Hawkinson stated their goal is to have a PA system for the opening game to announce player's names. The games are from 5:00 p.m. to 7:15 p.m. and all day on Saturday.

Mr. Manahan asked if there would be lights.

Mr. Hawkinson stated no.

Mr. Wyman asked if there would be a lighted scoreboard.

Mr. Hawkinson stated no, there will be lights inside the “crow’s nest”.

Mr. Wyman asked for testimony from the public in support of the application, there was none. Mr. Wyman asked for testimony that was in opposition, there was none. He asked for testimony that was neither for nor against but on a neutral basis. There was none. The public portion of the meeting was closed.

Mr. Kendall moved to grant the request from Suburban Little League for a special exception to add a storage structure and relocate other buildings at the Drowne Road School; Tax Assessor Map R03, Lot 51A, in the Rural Residential 1 (RR1) district; Bill Hawkinson, representative; Town of Cumberland, owner.

Mr. Manahan seconded.

VOTE: Unanimous

Mr. Longley informed Mr. Hawkinson that building permits would be required for the “crow’s nest” and to re-locate the sheds.

3. Workshop: Proposed Amendments to Sections 414 and 104.60 of the Cumberland Zoning Ordinance - Home Occupations.

Mr. Longley presented background information as follows: The Board was e-mailed copies of the corrected proposed amendments. This item will be presented to the Planning Board on June 20, 2006. The current language is a result of the previous workshop and comments. The Town Council has thanked the Board of Appeals for their input. The Planning Board will review the proposed amendments at a Public Hearing and recommend the changes to the Town Council for adoption.

Mr. Wyman asked if the Town Council adopts the amendments do they become effective immediately.

Mr. Longley stated yes.

Mr. Wyman asked if the Board needed to vote.

Mr. Longley stated it was not necessary.

Mr. Manahan stated the amendments looked fine; it was changed to incorporate comments. He asked how these changes would affect tonight’s application; there is no exterior display, no employees and all of the business is conducted in the basement. Is it subjective on the Code Enforcement Officer to determine the need for a special exception?

Mr. Longley stated yes that is correct if there are any questions, concerns, or outside indications then they would require a special exception. This has been done previously, a person with a computer and phone has not been required to receive a special exception.

Mr. Manahan stated if he is home working on his computer for his law practice that would have no outside impact.

Mr. Kendall stated there are a lot of people who telecommute and work from home verses having their residence as a place of business.

The Board discussed the changes to the Ordinance.

The Board agreed with the proposed amendments; these changes were forwarded to the Planning Board for recommendation to the Town Council.

4. Minutes: April 13, 2006

Mr. Manahan moved to approve the minutes of April 13, 2006.

Mr. Wilson seconded.

VOTE: Unanimous

5. Adjournment:

Mr. Kendall moved to adjourn. Mr. Wilkinson seconded.

VOTE: Unanimous

Adjournment: 7:50 p.m.

A TRUE COPY ATTEST:

R. Scott Wyman, Board Chair

Pam Bosarge, Board Clerk