

**TOWN OF WESTMINSTER
DEVELOPMENT REVIEW BOARD MEETING
MARCH 7, 2016**

Members Present: Chris Potter, (Chair); Kyle Skrocki (Vice Chair); Cathy Mullins (Clerk); Phil Savoy, Eric Anderson

Others Present: Russ Hodgkins (ZA); Karen Astley (Recording Secretary)

Interested Parties: Miles Chapin, Kyra Chapin, Claude Pepin, Jerry Hiam; Sharon Annis, Esq.; Peter Consula; Karan Spafford; Sandy Shriver, Esq.; Howard and Veronica Deitz; Nancy Dalzell

CALL TO ORDER: Chris Potter called the meeting to order at 7:05 PM in the Westminster Town Hall and welcomed everyone. All Board members were present. Chris advised that meetings are tape recorded therefore asked anyone that wishes to speak to identify themselves.

ADJUSTMENTS TO AGENDA: No adjustments were made to the agenda.

MINUTES: Chris Potter asked whether there were any changes to be made to the February 1, 2016 meeting minutes. Cathy Mullins mentioned that the sentence “A full Board was present” is not accurate as Phil Savoy was not present. Sentence should read “The Board was present except one member”. **Chris Potter made a motion to accept the minutes as revised. Cathy Mullins 2nd the motion. Motion passed.**

Ex Parte Communications: There were no recusals from the two applications being heard.

Interested Parties: All interested parties that signed in agreed to affirm that the evidence they give in the cause under consideration shall be the whole truth and nothing but the truth under the pains and penalties of perjury. Any comments from the public should be directed to the DRB. If the person before you has spoken to something that you were going to speak to please try not to repeat the same information. Everyone will have any opportunity to speak during the meeting.

Deliberative Session: The DRB members had previously agreed to make their decisions in Deliberative Session, if needed, following the public hearings on the applications. It will be scheduled at the end of the Development Review Hearing.

COMMUNICATIONS AND PUBLIC COMMENT: There was none.

NEW BUSINESS DEVELOPMENT REVIEW: *DRB Member Chris Potter*

Appeal: #16-26 Appeal of a potential “home occupation” located at 99 Wabena Way. Appeal will be reviewed under **Section 216 Appeals; Section 442.5 Rural Residential District Zone; Section 613.1 Protection of Home Occupations; Section 613.2 (B) Home Occupations** of the 2014 Interim Zoning Bylaws. This appeal will also be reviewed under **Town Noise Ordinance dated December 25, 2005.**

Testimony: Peter Consula (Appellant) with his attorney Alexander Shriver testified that the “home occupation” as declared by the Zoning Administrator is an industrial type of business which should not be in a residential neighborhood. This type of business will devalue his property and encroaches on his quality of life as the noise is chronic and insidious in nature. Peter Consula is appealing the noise and wants the activity stopped. The location of Miles Chapin’s work is in the front of Peter Consula’s main living areas of his house. Peter Consula stated the noise from the grinding travels up the hill and is a constant high pitch sound. Peter does not trust that the Zoning Administrator, Russ Hodgkins dealt with the situation appropriately nor would a temporary structure alleviate the noise. Peter Consula also stated that the Zoning Administrator would measure the decibels which he did not. Attorney Shriver questioned Peter Consula why it took you so long to complain about this to the town? He stated he has been working on a project house and did not realize Mr. Chapin had so much stone until he visited last October. Appellant is appealing the “home occupation” on the grounds that this is an industrial type of business and the noise. This type of business changes the character of the neighborhood. It should not be allowed without a permit.

Exhibits were presented for the survey of property; a picture of the garage/barn where work is being done; picture of stone work. An audio recording was presented as well as cell phone recordings of the noise.

Miles Chapin, artist, has been doing his work (stone grinding) for the past five years in this neighborhood with no complaints. Miles testified that he has complied with the Zoning Administrator and has worked with his neighbors to contain the noise. Miles is working with a builder Jerry Hiam to sound proof the temporary structure until a new barn will be built and house the entire operation of his “home occupation”. Miles has an application in to do this. Miles has three main tools that he uses for his work. Miles equipment is air and power tools. They are an air polisher, grinder and chain saw. Miles has a silencer on his air polisher to reduce the noise decibels. Miles stated using the grinder outside is between 48-51 decibels; inside the temporary structure it is 38-40 decibels. Miles’ loudest piece of equipment is 66-68 outside and 55-57 inside. Attorney Annis stated that since November when the complaint was received by the Zoning Administrator, Miles Chapin has complied with mitigation measures to deafen the sound. He has sound proof the temporary structure with insulation and is working on building a permanent structure. Attorney Annis stated that Miles Chapin is within his legal right as this is “home occupation” as outlined in the Zoning Bylaw. There is a mixed use of businesses in the neighborhood from art studios, gardens, music and farms that don’t change the character of the neighborhood. This appeal should be dismissed based on the grounds that the appellant did not respond within the fifteen days. Attorney Annis stated at this point the DRB should take the facts and apply them to the law as outlined in the Zoning Bylaw.

Mr. & Mrs. Howard Dietz, Sr. were present and they addressed the runoff from Miles Chapin’s work. Water is used when grinding. Mr. Dietz is concerned about this runoff polluting the stream and reaching the pond. Miles stated there is minimal runoff of water from his work and it is contained to the area where it then seeps into the ground.

Attorney Shriver requested if they could reserve the right to have five days to send an amendment? The Board stated if they required additional information they would request it but at this time they had heard both sides and had enough information.

There was no further testimony from the public. The DRB did not request testimony from the Zoning Administrator. **The hearing was closed at 8:35 p.m.**

UNFINISHED BUSINESS:

a.) Zoning Bylaw Article III Discussion: Tabled until the next meeting.

OTHER BUSINESS:

Recess to Deliberative Session: There was a consensus of the DRB members to enter into Deliberative Session at 8:45 p.m. and asked the ZA to leave the room so they could deliberate.

Deliberative Session report taken by Russ Hodgkins: Coming out of the deliberative session at 9:12 p.m. to which the ZA joined them, Chris Potter declared the “Appeal” not filed in a timely manner. The letter of December 7, 2015 was obviously the Zoning Administrators decision and according to the Westminster Interim Zoning Bylaws this appeal would have to be filed 15 days from that date. This did not happen until January 26th of 2016. The second letter dated January 16, 2016, in the opinion of the DRB, was clarification of the original decision. Cathy Mullins will draft a letter to Mr. Consula and all Board members will sign.

Date of Next Meeting: The Chair declared the date of the next meeting will be April 4, 2016. Kyle Skrocki and Cathy Mullins both declared they will not be in the area for that meeting.

Adjournment: Chris Potter made a motion to adjourn the meeting at 9:20 pm.

Signature of Clerk

Date

Prepared by: Karen Astley, Recording Secretary

(Note: These are unapproved minutes. Corrections, if necessary, will be found in the minutes of the next DRB meeting.)