

**TOWN OF POMFRET  
PLANNING AND ZONING COMMISSION  
MINUTES - SPECIAL MEETING & PUBLIC HEARING  
MONDAY, MARCH 31, 2008 AT 7:00 PM  
POMFRET COMMUNITY SCHOOL CAFETERIA**

In Attendance: Commission Members Walter Hinchman, Michael Wolchesky, Phil Allegretti, Maureen Nicholson, Ted Tsanjoures, Robert Blackmer, Leah Schad, Alternates Carolyn Hopkins, Tony Amaral. Town Planner James Rabbitt, Attorney Kerri Olsen, Approximately 200 citizens.

- I. **Open Meeting/Current Business** Meeting opened at 7:00 PM by W. Hinchman
  1. **Judy's Kitchen, LLC, 405 Mashamoquet Road, Non-Conforming Expansion** – Cindy Dunn was present for applicant, Judy LaLiberte, who was also present. Ms. Dunn stated that while they still believed they could do the expansion under the current Regulations they were going with a modified application. They have spoken with an attorney regarding a text amendment and submitted a letter from him dated March 31, 2008. They were asking for a 196 square foot addition in order to meet rest room requirements to open. Brief review of plans. This application is pending Wetlands approval and is tabled until April.
  
- II. **Public Hearings** – Hearings opened at 7:15 by W. Hinchman.
  1. **Pomfret Planning and Zoning Commission, Zoning Regulations Text Change, Home Occupations** – W. Hinchman stated that businesses that were in operation before zoning are grandfathered and could still continue to run as usual. Also, equipment for personal use is acceptable. He then opened floor for comments. Attorney Ernest Cutmore, representing Paul Hennen stated that modified Regulations must be uniform with the Plan of Conservation and Development and be considered for the betterment of the Town. This proposal considers Rural Residential and Pomfret Street Zones and therefore violates uniformity. They do not comply with the Plan of Conservation and Development. Robert Stuart, appraiser for Paul Hennen, stated this is a Commercial use in a home He referenced the report he submitted on March 24th. Brian Miller also referenced report submitted earlier, stating zoning should preserve the character of the Town and protect home values. Mike Buson he hoped these changes would not gut zoning in Town. Al Washburn felt the businesses grandfathered were a good point. Perhaps a current neighborhood should be grandfathered from Home Occupations moving in. David Rutkowski read and submitted a letter clarifying truck sizes. He felt this was no compromise, but changed residential zones to commercial. Paul Hennen read a letter to the record and submitted the same asking why this change was needed. Jim Rivers submitted documentation to the record including a letter from the Town Democratic Committee supporting this change and reports from the Assessor's Office indicating 289 commercial vehicles in Town 192 business entities filing personal property. Katerina Rutkowski stated the truck she showed last week was 24'. This change would allow 3 trailers or similar size box trucks. If the intent is for large pick-up trucks or small dump trucks, she would be O.K. with that. The unspecified size is her concern. Terry Bellman asked about the reason to make Home Occupations by Special Permit as opposed to that of by right. Larry Southam stated a widening trend in the U.S. Home Occupations. This text represents a continuation of an incomplete original writing. Richard Landry felt proposals are s step backwards. Carolyn Gerrity stated commercial farming equipment passes many times on her road each day. Last month the Town passed a

Right to Farm Ordinance. This is no different. The text specifies three different types of vehicles that must be screened. Charles Dunsmore felt large truck traffic was not a good idea. He would like procedures where residents can vote on similar changes to zoning. Attorney Olsen stated this current procedure is by State Statute. There is no procedure for referendum. Carol Rogers asked about allowable equipment and if one lot could have both a Home Occupation and a Home Based Business. James Rabbitt stated the intent here is a maximum of three pieces of equipment in any combination. The intent is not to allow two commercial uses. Tony Emilio said much good work has been done until trying to resolve heavy equipment. Zoning needs to protect property values. It was unfortunate this could not be worked out amongst people involved. Richard Digatano asked for clarification of three trucks and five deliveries. Don McGowan felt item 16.2 would change the nature of the property. He was concerned about trucks and would ask the text require approval of a Special Permit by  $\frac{3}{4}$  vote. Sally Rogers asked about the difference between Home Occupations and Home Based Business. This would be primarily size. Mary Smutnick stated it would be unfortunate if large vehicles could be parked in any residential lot. At the agreement of the Commission this Public Hearing will be kept open for now so that those who wish to compare and contrast this with Home Based Businesses could do so.

2. **Pomfret Planning and Zoning Commission, Zoning Regulations Text Change, Home Based Business** – John DiIorio presented a map showing the impact of change on various size parcels of land. He felt misinformation lead to problems with this process and extremism leads to dissent. He asked the board to publish unbiased information of the Regulations. Richard Hall stated a Home Based Business could have an onerous impact on a neighborhood. He spoke about the subdivision on Wetherbee Road and the homes for sale on it that remain unsold. Chris Surdam stated the narrowness of the road would be detrimental to sales and the logger would not be the only impact. Cindy Sullivan submitted two letters from residents and stated she supported the proposed text as improving and completing current regulations. She stated some reasons for her support were the 10 acre requirement offered an option other than subdivision, businesses pay taxes, children growing up in Town had another livelihood option that would let them stay in Town. She also submitted logs from Great Woods Company indicating the number of trips taken per day. Jan Rhondo stated she lived beyond the log truck and there was no noise or pollution in the neighborhood. She walks a lot and when the truck does pass he always pulls over and is courteous. They are good neighbors, there is no noise. Bill Hull read a statement into the record and submitted it. Small businesses were put on hold with the original zoning text, but were able to hang-on being grandfathered. The text can and should be changed. David Evans with a realty association stated Home Based Business text was too broad and allowed for too much equipment. Tim McNally stated the need for Home Based Businesses. He referenced some contractors within his neighborhood and stated this change would protect these types of businesses in the event they need to add a piece of equipment and find they can be driven out by a claim they have changed and are no longer grandfathered. These businesses are by Special Permit and he trusts in the decision PZC would make. Bob Bitondi stated there was no compelling reason for this change. There is no compromise in 10 trucks and blue collar vs. white collar is a sad argument. Mr. Groton stated playing on trucks was a scare tactic. They are the same size as u-hauls, campers, and buses. Truck drivers are usually better skilled drivers. Those that wanted zoning brought in wanted the PZC to have power, now they want to monitor them. He felt this

change balanced what's in place. Jim Robbins stated the PZC acts as citizen planners. He referenced Land Use Law. Commercial vehicles could bring an adverse effect to Town. He hopes the Commission makes their decision on facts, not emotion. He cited examples of some road widths in Town. The Town voted down a Transfer Station on Route 44 due to the truck traffic that would be created – why is that traffic OK now. How would inviting this industrial use into Town keep Pomfret rural. John DiIorio stated mutual respect and the right of business to exist being at the core of a rural community. Text for the right to expand he would support but homeowners living in rural neighborhoods must be respected as well. Pam Cartledge stated she was opposed to the text. David Moore stated the Wetherbee Road neighborhood changed from very rural to rural residential. Large trucks arrived and everything changed. They might be appropriate in some areas but not in established neighborhoods. Paul Miller stated that farmers are caretakers of Open Space. PZC should protect citizens and business. He felt this was a small step in the right direction. He submitted a copy of Statutes. Jim Rivers read letter of support from the Board of Selectmen with two for and one opposed for this amendment. He provided some statistics of fuel spills stating 4 spills reported for fuel storage and 23 home heating spills. Comments from the Fire Marshall were included in his packet. Pomfret has a long history of Home Based Business. This provides landowners with an alternative use of property than to subdivide. Katerina Rutkowski spoke about Health and Welfare. Fuel was a highly likely contaminant. The text implies business is less risk of contamination. She does not agree and submitted information for record. Bob Jakes stated that trucks are on the road all day. If there is a problem with the trucks the DOT will shut the truck down. Some cars on the road are more of a risk. Albert Washburn asked who is inspecting the trucks as follow up after the Fire Marshall. David Smutnick stated he felt that the timing and the way the text was written was inappropriate. He felt it should be tabled until the suit filed against the ZBA was settled. Ann Hennen with the Conservation Commission stated dismay at the proposed text. Read letter and submitted to record rejecting the amendment entirely. Attorney Ernest Cutmore for Paul Hennen stated the presentation he made earlier was identical here and he will submit the same documentation. He felt this application was more invasive than commercial uses within appropriate zones. Don Burton spoke about storage of fuels and hazardous waste. There are presently State and Federal Regulations that address storage and disposal of hazardous wastes. Carol Rogers commented on the requirement that the owner/operator must reside on the property, but did not clarify they must be the landowner, the text states up to 10 pieces of equipment but does not specify size limits, could the acreage include a rear lot, consideration of the number of lots in Town this could apply to must be considered. Paul Hennen read letter dated March 31 into the record and submitted a transcript of the May 7 Selectmen's Meeting and the original proposed text change. David Abbamonte stated the argument that this is one means to preserve property is irrelevant unless it requires a commitment to preserve. There is no need for diesel storage in a rural residential zone. He felt the text related back to 34 Wetherbee Road and submitted to the record a petition stating the same and a statement from Bill Wentworth who could not be present. Jim Robbins spoke about road width and their design for safe passage. Don Burton spoke about secondary containment for above ground fuel storage. Ann Hennen submitted a letter for Leigh Grossman and a list of scenic Town roads. Robert Blackmer moved that the Home Based Business Public Hearing be closed and that the Commission be allowed sufficient time to review all documentation and take up discussion at the April meeting. Maureen Nicholson

seconded. All in favor. Bob Blackmer moved that the Home Occupation Public Hearing be closed and that the Commission be allowed sufficient time to review all documentation and take up discussion at the April meeting. Leah Schad seconded. All in favor.

**III. Regular Meeting**

**1. Current Business** – Brief discussion of Commission review of large amount of documentation. Members will visit the Town Hall before the regular April meeting in order to review files. Walter Hinchman stated that there were two hearings closed at the last meeting. With Commission agreement he would review some minor typos and sentence structure with Jaimie so these may be final at April meeting.

**a.** Discussion and Possible Action: Pomfret Planning and Zoning Commission, Zoning Regulations Text Change, Historic Resources - Tabled to April 28, 2008

**b.** Discussion and Possible Action: Pomfret Planning and Zoning Commission, Zoning Regulations Text Change, In-Law and Caretaker Apartments – Tabled to April 28, 2008

**c.** Discussion and Possible Action: Pomfret Planning and Zoning Commission, Zoning Regulations Text Change, Home Occupations – Tabled to April 28, 2008

**d.** Discussion and Possible Action: Pomfret Planning and Zoning Commission, Zoning Regulations Text Change, Home Based Business – Tabled to April 28, 2008

**IV. Adjournment** – Michael Wolchesky made a motion to adjourn. Maureen Nicholson seconded. All in favor. Meeting adjourned at 10:30 PM.

Respectfully submitted,

Bonnie Ryan, clerk

Date approved\_\_\_\_\_