

**TOWN OF GORHAM
BOARD OF APPEALS
ZOOM MEETING MINUTES
MARCH 18, 2021**

The Gorham Zoning Board of Appeals held their monthly meeting on March 18, 2021 at 6:30 pm in a Zoom Webinar format due to the COVID19 outbreak across the country. Charles Haws, Chairperson opened the meeting.

Present: Board Members; Courtney Barnett, Chad Butts, Mark Curtis, Charles Haws, Patrick Palermo and Craig Stirling, Code Officer, Freeman Abbott, Attorney Mark Bower from Jensen, Baird, Gardner & Henry representing the Board and Deputy Town Clerk, Paula Nystrom. Christine Hume, absent

Several people from the public signed on to the Zoom Webinar.

Moved by Mark Curtis, seconded by Chad Butts to accept the November 19, 2020 meeting minutes as printed and distributed. VOTED 6 years

Appeal #21 – 01 Administrative Appeal. Mr. Aaron Hill, petitioner is seeking an Administrative Appeal for the Code Enforcement Officer's decision for a Home Occupation Use Permit at 17 Water Street (Map 102 Lot 140). The subject property is located in the Urban Residential (UR) zoning district.

Chairperson Haws asked Attorney Mark Bower to give a brief overview of Chapter 1, Section IV of the Zoning Regulations as it would relate to this appeal and what this Board of Appeals will use in the determination of the Code Enforcement Officer's decision.

Chairperson Haws invited Mr. Hill to give a background on the appeal. Mr. Hill presented a thorough explanation of his administrative appeal using graphics as well as submitting testimony from neighbors in support for his endeavor.

Chairperson Haws asked for comments from CEO Abbott on this appeal. Mr. Abbott stated that once he received Mr. Hill's formal application and formal description of the business he made his determination of his application based on the Code. Mr. Abbott restated his reasoning for denying Mr. Hill's request for a permit that the use is not similar and compatible in his opinion. In a phone conversation with Mr. Hill, Mr. Abbott suggested that Mr. Hill could go to the Gorham Town Council to request a change of the ordinance to include such things as repair services in this Land Use and Development Code.

Public Hearing: Chairperson Haws opened the public hearing through the Zoom Webinar.

Suzanne Phillips, Vice Chair from the Gorham Town Council indicated that this item was received in January, 2021 to the Town Council and was then forwarded to the Ordinance Committee for review. It is awaiting a decision from the Ordinance Committee regarding changing this Home Occupation Use to be added to the Ordinance. Ms. Phillips indicated the processes is lengthy and the Town Council is looking forward to getting this back from the Ordinance Committee for discussion before moving it along in the approval process. Ms. Phillips also stated that this service of Mr. Hill's would be a great addition to Gorham due to all the bike trails and walkways that encourage biking.

Raegan Young, 26 Water Street, a neighbor of Mr. Hill's spoke in support of his business endeavor saying "these are the kinds of businesses we would like to see in Gorham".

With no other comments, Chairperson Haws closed the Public Hearing.

Discussion: Chairperson Haws asked for comments/discussion from the Board.

Patrick Palermo asked Attorney Bower for the definition of Home Occupation and Repair Service as it relates to this appeal. Attorney Bower stated that in the Code, Section 2-15 under Home Occupation Standards there are a set of uses automatically allowed and then there are those that are similar and compatible (subsection L) that are determined by the CEO. A repair service can fall under a home occupation under subsection L which the CEO would determine as similar and compatible. In this appeal the CEO indicated that the use was not similar or compatible with the Code.

Mark Curtis expressed his regret that Mr. Hill was given an opinion from Thomas Poirier, Director of Community Development which was taken as a decision to move forward in this endeavor. As stated in Section 2-15, subsection L of the Code, the CEO has the authority to give some leeway in the making of a determination as to similar and compatible.

CEO Abbott commented that there were numerous staff meetings prior to the decision in regards to this appeal.

Chairperson Haws asks the Board if there has been sufficient discussion and facts presented to decide whether it was an error in any order, requirement, decision or determination made by the Code Enforcement Officer in the enforcement of this Code with the applicant.

Conclusions:

Motion by Craig Stirling to affirm the decision of CEO Abbott in this appeal.

Failure of a second.

Motion by Mark Curtis to reverse the decision of CEO Abbott based on this Board's interpretation of the appeal as presented by the applicant citing examples used to be quite compelling in the decision process.

Seconded by Chad Butts. VOTED 4 yeas, Court Barnett and Craig Stirling nays. Motion passes

Motion by Mark Curtis to authorize Chairperson Haws to sign the letter of determination in this appeal.

Seconded by Patrick Palermo. VOTED 6 yeas

Motion to adjourn.

Moved by Patrick Palermo, Seconded by Court Barnett and VOTED 6 yeas.

Time of adjournment 8:11 pm

A TRUE RECORD OF THIS MEETING WHICH IS INTENDED AS A SUMMARY AND NOT A TRANSCRIPT. See the video recording for additional discussion.

Attest:

Paula Nystrom, Deputy Town Clerk