



Town of Eddington

906 Main Road Eddington, Maine 04428

PLANNING BOARD
September 21, 2022
6:00 pm
MINUTES

CALL TO ORDER: David Peppard called the meeting to order at 6:00 pm.

ROLL CALL: Members present were David Peppard, Scott Newhart, Heather Grass, Craig Knight and Susan Dunham-Shane.

Motion to go into Public Hearing regarding the Darric Hammond application, 9 Pine Tree Lane, Eddington. **By Susan DS/Craig K 2nd. Vote 5-0**

David P advised everyone that they will not tolerate impoliteness or hostility during this public hearing. Anyone speaking will have a 3 minute time limit to voice their support or concerns. He explained to everyone that they need to stay focused on the current permit before them, the ability for Darric Hammond to Store Boats and the process of storing the boats will include shrink-wrapping and winterizing them. There will be no mechanical work provisions in his application. Susan DS reminded everyone that when they stand to speak, they should state their name and address.

PUBLIC HEARING
Darric Hammond, 9 Pine Tree Lane
Boat Storage

Ronald Logan, 1403 Main Road, Eddington. He and his wife have been living here for about 23 years. He supports local businesses in our town like Tradewinds and Autoworks. It is important to him and the service that Darric provides him just as these other businesses do. He continued that we need small businesses.

Jon Pottle, Attorney for Sally Harrison and Terry Grant spoke. He agreed that everyone wants small businesses and prosperity, but that is the reason that a town has zoning. They have a blown up copy of the land use table on the wall. There are places where businesses are accepted and places where they are not. He provided the Board with information last week which included a definition of Vehicle Sales, Service and Repair. He feels that the storage business that Darric H is proposing falls within this definition. He feels the definition states that any business involving boats fits that definition. He passed out copies of the Land Use Table which delineates what can and can't be done in each district. Darric Hammond's property is in the Rural Residential district and Vehicle Sales, Service and Repair are not allowed in Rural Residential. It is allowed in other districts in town. He feels it is a threshold question and they would have to conclude that it was not a business involving boats for it to fall outside that definition. Rick Leavitt, Code Enforcement Officer explained that the wording was Vehicle Sales, Service and

Repair and if the permit request was to sell boats, he could understand how it would fall under it. But Mr. Hammond is asking for a storage area and in this case it happens to be boats.

Mike Cohen, Loon Lane, Eddington stated that the Rooks Road from Rt. 9 to the top of the hill in Holden is residential. Though he likes to see small businesses, he feels that other people will want to do business in this area. David P told everyone that if they have an issue in town they need to bring it to the town's attention.

Lance Libby, 674 Chemo Pond Road, Eddington said that he met Darric 3 or 4 years ago and he has helped him with different projects, (working on camper, boat, covering boat). He has been by his place and it is neat and clean and he knows he will keep it that way. He continued that Darric respects people's rights and is a decent hearted person.

Gary Doughty, 331 Chemo Pond Road, Eddington. He met Darric 3 to 5 years ago. He works on his camper, boat, snowmobile, and jet ski. He is a nice honest man who will keep his yard neat and you can't see his yard from the Rooks Road. He wanted to clarify to the attorney that he is asking to store boats not repair them.

Sally Harrison, 18 Lonnie Lane, stated that Mr. Hammond may be a nice guy, but everything that the last two gentlemen have said that he does for them is against the Zoning laws right now by fixing all of the equipment mentioned. The testimony is bringing this up.

David Peppard repeated that all they are considering tonight is whether to allow Mr. Hammond to shrink wrap and store boats in the future. It has nothing to do with what was done in the past. If he is approved it will be for just shrink wrapping and storage and he will not be allowed to rebuild motors or carburetors in that zone because it is not allowed.

Gary Doughty, 331 Chemo Pond Road, He never said that he had taken his equipment to Darric H's house. Mr. Hammond came to the campground and worked on his equipment, some of it in Mr. Doughty's garage.

Tommy Tardiff, 178 Rooks Road, his land abuts Darric Hammond's land and if he didn't know Darric, he would not know what he was doing for work there. He continued that he could not see his house and there are plenty of woods so it shouldn't be a problem. They walk on Pine Tree Lane and he does not think it will create an eye sore, but rather that a blue-collar worker is working his butt off. As a neighbor he does not see a problem.

Roscoe Martin, 24 Loon Lane, He said Darric H travels around and works on boats, but doesn't work on them there. He covers them and stores them there. They are covered with white and it is winter so you don't even notice them. He does not see any problem with it at all.

David Pooler, representing Darric H on this site plan said it sounds like what they are looking at is the definition of whether Darric H can do this. Storage/Warehouse is an allowable use in Rural Residential with Planning Board approval. Definition of Warehousing: The receiving and storage of goods or merchandise outside prior to their redistribution. Definition of merchandise: chadels of every description. Definition of Chadels: Items of property other than real estate. It refers to tangible, moveable personal property. Boats are considered personal property or chadel and are allowed in this zone under the warehousing definition. Shrink Wrapping is a subordinate use of the storage. Accessory Use and Structures are allowed in their zone per Code Enforcement approval. Definition of Accessory use: commonly associated with or in support of the primary or principle use of the lot. They are asking that the purpose of this lot be a boat storage area. Shrink-wrapping in the garage is subordinate to the storage. They are not asking to repair boats there. Darric H repairs boats at other properties. Shrink wrapping is not a separate service. He is getting paid to store the boats and he has to shrink wrap them.

Rick Leavitt, Code Enforcement Officer, where this was something new, he went around to other storage areas around and asked about shrink wrapping and taking fluids out of boats. He was told by all of them: "What is the sense to store a boat without covering it." Shrink wrapping is not an added service.

Sally Harrison, 18 Lonnie Lane, went to the three largest storage facilities and she has it in writing that shrink wrapping is a service. She continued that Rick L told her in the past that it was not a service and Rick L added that it is a service of storage.

Paul Gargan, 364 David Road, Eddington. His kids and Darric went to school together. Darric has moved to town, looking for a place to live and support his family by storing and shrink-wrapping boats. Mr. Gargan has lived in town since 1979.

Sally Harrison, thinks it is interesting that they say he does not work on items here. She brought up a picture of Mr. Hammond backing a boat into his garage to fix from August 22, 2022. (Someone else said she does not know it was to fix, it may have been to shrink wrap) She has numerous pictures of Darric Hammond pulling boats into his yard and fixing them. She built a home on the lake to retire, but she has service people and people with their boats coming down to her house looking for Hammond's. She lives this every day and has people coming down and disrupting her life every single day. She has a paper signed by 65 people in the surrounding area, practically everyone on Rooks Road, that do not want this service and she would like to submit it to the Planning Board.

Mike Cohen asked Rick L if when he visited the other boat yards and they talked about shrink wrapping and fluids, what they were doing with the fluids. Rick L said it would be like someone putting away their lawn mower and putting stabilizer into it. There are other fluids he would have to check on. If he is removing fluids, he would have to store and dispose of them properly like anyone else.

Jon Pottle, representing Sally Harrison and Terry Grant, wanted to point out to the board that when they are looking at definitions and land uses, it is very well established that more specific language trumps or supersedes that which is more general. He feels they need to take a hard look at whether this is vehicle sales, service and repair, which defines any business involving boats versus the storage warehousing which doesn't mention boats and is a much more general definition. He wants to point out the more specific controls when it comes to ordinance interpretation and to consider that as they listen to other comments.

Judy Badger, 20 Chestnut Lane, across from Darric H. She has been here since 1958. And has never once had someone stop in her yard looking for Darric H. He is well known in the community and she does not see the harm in shrink wrapping boats. She continued that they are in business too and would think they understand how it feels to have someone come down on them everyday. If they are worried about their retirement home, maybe they should put a fence up all the way down their road and that way they would not be able to see Darric H's place. If they are the ones concerned, why don't they do the work because he is not harming one person and they have never had this trouble before?

Roscoe Martin, 24 Loon Lane, He was wondering how many people that signed the petition were told that it will affect their property taxes and devalue their property. That is what he was told to sign the petition. Sally Harrison said that it will drop your property value if this business is approved.

Terry Grant, 1 Lonnie Lane, She will try to take out some of the things she was going to talk about, but his historic actions do matter. David Peppard said that past history does not play into a current application. David P continued that he was issued a cease and desist order and according to the CEO he has been in compliance since then and to go back 3 to 4 years is not going to matter. Terry G said he was granted a permit to build a residential garage but the email on the application was hammondrepair so this is questionable intent. When the garage was done he posted on Facebook that he was going to do on-site boat repairs, shrink wrapping services, atv engine, rv trailer wheel baring, camper and snowmobile repair services, with pictures of these activities in his residential unfinished garage. They complained and Mr. Hammond wrote a note to the Planning Board that it was not his intent to establish a commercial operation in a recently

built garage as it is suggested by the complainant nor is it his intent to utilize his residence as a location of a commercial operation including a sign and they were dismissed. Less than a year later he did an application for exactly what he said he would not do. Sally H and Terry G had to get legal representation to get heard. The previous CEO then put together a consent agreement and it was acknowledged that the boat storage and boat repair were in violation. Mr. Hammond then had to move all of the boats and he moved them to another house in Holden and Holden gave him a cease and desist order. Terry G continued that in his application it stated that many of the activities have been going on for years and she feels that it shows disrespect of town ordinances and rules. She continued that this application should be denied based on the classification of vehicle sales, service and repair which are prohibited.

Gary Doughty, 331 Chemo Pond Road, Darric H built his garage 3 or 4 years ago and that is all Terry G talked about was back then. He cannot imagine someone owning a small business in town doing this to another small business owner.

Sally Harrison, stated that their business is in a business zoned area.

David Pooler, they are not asking for vehicle sales, service or repair. They are not servicing, repairing or selling boats, they are storing them. The commercial business definition does not mention boat storage, so he does not understand how the other side can feel it falls under the definition of vehicle sales, service and repair. He said whether or not the garage was built to be residential to begin with should not affect this application.

Jon Pottle, disagrees with the interpretation of Mr. Pooler. He said if you look at the definitional language, it doesn't say any business involving boats, except those that involve storage. If you have a definition you have to apply it. If you want to try to redefine it and come up with something different, I would submit to you that would be a legal error. The definition is what it is. You have to look at it, read it and see what it says. It says any business involving a number of items including boats. If you do not think this is a business involving boats, then he thinks you are going to need to describe why you think that is the case in a written decision.

Motion to close the Public Hearing and proceed with the regular meeting

By Susan DS/Craig K 2nd. Vote 5-0

Public Hearing closed at 6:43 pm

They will be going to the review of the Darric Hammond application for an Outdoor Storage Business starting with Section 402, Review Criteria

402.1 Rick L verified that the fee was received in November 2021 and he signed the paperwork today.

402.2 Proposed activity will not cause significant soil erosion. Susan stated that the existing ditch along the edge of the storage area is to be filled on the revised application. She asked if it will go along with the storm water plan? And David Pooler answered yes. David Pooler explained that the contours go across the stream and will slope away from the tree line toward the gravel and filtered area. Susan DS questioned if Part A of the plan included expanding the storage area at this time. David P explained that the current storage area is a defined area of grass and they are proposing to expand into the gravel area. In the future the contours are going to have a gradual slope toward the ditch. The filtration system will handle both current and proposed projects. The tree line buffer is being moved in Part A.

402.3 Proposed activity will not have a significant adverse impact on wetlands. Details in the Plan, they are moving tree line and a berm will control the water.

402.4 Adequate storm water management is shown on the plan. This was just discussed and will be bermed and filled

402.5 Adequate sewage disposal. There is an existing leach field for the house, only water in the garage is an outside faucet.

402.6 There will be sufficient water to meet potable and fire suppression requirements. There is city water and hydrants .

402.7 They will dispose of solid and hazardous waste in conformance with all applicable regulations. There are no current or proposed hazardous materials.

402.8 Proposed activity will not affect quality or quantity of ground water. The cleaning will be done at a facility in Brewer so there are no cleaning compounds used on his property. There will be no washing on site.

402.9 The proposed activity will not cause traffic congestion or unsafe conditions. They estimate 4 to 5 vehicle trips per day and Mr. Hammond will maintain Pine Tree Lane from the Rooks Road to his driveway. Susan DS said there has been some discussion of vehicles overshooting the driveway and she asked if Mr. Hammond would take care of road to the end of his boundary line. Sally Henderson explained that by his deed he does not have access to that road past his driveway. Susan DS suggested putting up a sign for private property. Jon Pottle also wanted to bring up regarding property rights, whether someone has the right to allow the public to be on a private road to get to a place of business. There is not a Road Association. Terry Grant explained that there are just 4 camps that maintain the road. Dubravka Moshfegh owns the road. Darric H plows the end of the road, as does Terry G

402.10 Paperwork provided that there will be no negative impact upon scenic, historic or wildlife resources or habitat.

402.11 Information was provided that the activity will not have adverse impact upon historic or scenic areas identified in the Comprehensive Plan.

402.12 The activity will have no detrimental effect on the use and enjoyment of abutting properties as a result of noise, vibration, fumes odor, etc. Craig K asked if this would be a 12 month of the year business. Darric H explained that generally speaking the storage would start the end of August as the out-of-staters go back home and will be back in May or June to use their boats for the summer.

Susan DS questioned that parking is not addressed in the application. David Peppard feels that looking at the location he thinks they could park 20 tractor trailer trucks there. Scott N said it depends on the size of the boat. Susan DS asked if it is fully forested on the other side of the tree border and Rick L answered that it is not fully blocked from view from Pine Tree Lane. David Pooler clarified that the buffer at the road is not changing. Susan DS complimented the prosperous control on the plan. Darric H will be putting the removed shrink wrap in a dump trailer and then taking it to the Brewer Transfer Station.

402.13 The application conforms to all the applicable provisions of this Ordinance.

403.2.8 The applicant had asked for a waiver from structure setbacks because David P thought it was referring to new structures, but it refers to existing structures so they will cross out waiver request because the drawing shows the setback of existing structures..

403 Submission requirements are all addressed in 403.8, A through J.

I move that having reviewed the application, that it has met all of the requirements of Section 402, Review Criteria; Section 403 Code Enforcement Officer Review and Section 404, Planning Board Review.

By Susan DS/Craig K 2nd Vote 5-0

Motion to write the Finding of Fact and allow the CEO to issue a permit

By Susan DS/Heather G 2nd Vote Yes 3-Abstained 1- No 1

Craig K abstained and Scott Newhart voted No

Jon Pottle asked if the Board will prepare a written decision and Rick L answered yes, he will wait for the minutes. He continued that Darric H can do no activity until the permit is issued.

NEW BUSINESS:

PUBLIC ACCESS:

UNFINISHED BUSINESS:

AGENDA FOR FUTURE MEETINGS – HOUSEKEEPING

DATE OF NEXT MEETING: The next meeting will be the Planning Board Public Hearing for the Solar Ordinance on Thursday, September 22, 2022.

ADJOURNMENT: Motion to adjourn at 7:37 pm. **By Scott N/Craig K 2nd. Vote 5-0**

Respectfully Submitted,
Denise M. Knowles