

TOWN OF CONCORD PLANNING BOARD  
Town Hall

August 6, 2024  
7:00 p.m.

ITEM # 1:

The meeting was called to order by Planning Board Chairman, Joseph Edbauer, at 7:00 p.m.

ITEM #2: Roll Call

Present:  
Joseph Edbauer, Chairman  
Bruce Luno  
James Jozwiak  
Julie Zybert  
Michael Cochran  
David Dains

Not Present:  
Ray Hilliker

Also Present:  
Darlene Schweikert  
Clyde M. Drake, Town Council Liaison  
Thomas Roberts, CEO  
Kenneth Kassel, Town Council

Molly Kruszka  
Ramey Henault-Roth  
Jacob Zelie  
Scott Zelie  
Eric Wiedemann  
Meshulam Holzman  
John Schenne

ITEM #3: Citizen Participation

Resident Molly Kruszka lives on Trevett Road with a parcel of approximately 10.50 acres and is gifting a part of her property for her sister to build a home. Ms. Kruszka has been working with CEO Roberts and was advised that she needed 1.5 acres to build. A survey was done at the cost of \$1,500. Then the builder came and informed them that they needed 200 feet of frontage on the parcel and that sent them back to talking with CEO Roberts and the surveyor. CEO Roberts have been working with Ms. Kruszka and Ms. Henault-Roth on how this could work. Ms. Kruszka is here tonight to try to get some clarification. There was discussion about 200 feet of frontage vs. 200 feet at the building line. Chairman Edbauer noted that it is at the building line. In order to get that the 200 feet at the building line, the parcel to be conveyed to Ms. Henault-Roth would not be a nice rectangular shape; that would give Henault-Roth the 200 feet and Kruszka would still have the 200 feet at her building. Chairman Edbauer said he is familiar with the situation but doesn't know all the markings on the survey; he'd suggest Ms. Kruszka have her attorney review the Code and the survey and then go back to CEO Roberts. M. Cochran advised that there are other issues to be considered: set back requirements, health department requirements. This parcel would be part of the Trevett Road water district so it would not have a private well. Ms. Kruszka wondered if she should apply for a variance to match the neighboring parcels or rezoning the parcel from R-Ag since there are R-1 parcels in the area. CEO Roberts

questioned if with the indent the owner would be able to fit in the septic system with location of the new house. CEO Roberts reviewed the survey with the residents while there was Planning Board member discussion about making sure that the existing owner's lot does not become non-conforming; if both parcels have 200 feet at the building line, then it is up to CEO Roberts to review the building permit application for approval. Nothing should be needed from the Planning Board. CEO Roberts noted that if the route that Kruszka and Ms. Henault-Roth wanted was the parcel with the indent than that would be no problem. Chairman Edbauer advised that if it meets the requirement of the Code, the Planning Board doesn't need to get involved. Ms. Kruszka will get all the documents together and will meet with CEO Roberts for final review and the building permit. Ms. Kruszka and Ms. Henault-Roth thanked the Board and CEO Roberts and left the meeting at 7:07 p.m.

ITEM #4: Approval of Minutes

a) July 2, 2024 – J. Jozwiak made the motion, seconded by M. Cochran, to approve the Minutes as presented. All in favor. Carried.

ITEM #5: Zelig – Home Occupation Firearms

Jacob Zelig had submitted his Home Occupation Permit packet to the Board. There have been other Home Occupation Permits granted over the past few years for Firearms licensing. The Board reviewed the questions asked at those meetings:

- Foot Traffic. Manageable, one or two a week. Chairman Edbauer noted that he had reviewed website and saw mention of sales. Mr. Zelig advised that he really doesn't dabble with sales much. He does not want to limit what he does but he doesn't really do much; he doesn't want to do say he doesn't do it, but not much.
- No Store front. There is nothing to come to the property to look at.
- No Employees. Just himself.
- Parking. J. Jozwiak asked if someone did have to come, is there parking? Mr. Zelig said yes, there would be no need for parking on the road.
- Conduct background checks. Yes, he does.
- Location. J. Zybert asked Mr. Zelig where this would be done? House, garage, another accessory building? Mr. Zelig said that he has two separate Home Occupation Permits before the Board. The Firearms license Home Occupation would be in a small personal office by the garage but inside the house. The other Cerakote process is the other Permit and will be in the garage.
- Inventory on premises. Mr. Zelig advised that he can't commit to that now. He'd say no more than 13 or 14. This would not include his personal guns. Scott Zelig, the applicant's father, did not understand why this question was being asked. There would be proper storage of all guns on the property. Chairman Edbauer advised that these were the questions that the Board has asked other applicants; Scott Zelig doesn't believe this information should be shared information.
- Shooting range. Mr. Zelig said there is a personal shooting range; not one for any business purpose; a hobby of Mr. Zelig. Scott Zelig, the applicant's father, noted that that is totally separate and this has been discussed. Chairman Edbauer advised Scott Zelig

that the questions are being directed to his son who is the applicant for the permit. Scott Zelig continued that there is shooting going on at Trevett Road all the time and he gets frustrated when everyone keeps asking about shooting when it has nothing to do with the business. Chairman Edbauer said he understands but there are other residents that live in the Town, in that area, and the Board is just trying to look out for everyone. J. Jozwiak noted that this is just part of the permitting process the Board has used in the past and Scott Zelig getting mad at the Board is not helping his son in this matter. D. Dains reaffirmed that if another resident comes back to the Planning Board, they want to be able to say that the members did their due diligence. D. Dains noted that this Board is not concerned about your prior issues with firearms and your neighbors; we're concerned about what is going on right here with this permit application.

- Deliveries. J. Jozwiak asked how deliveries are made. Mr. Zelig advised USPS, FedEx, UPS. Nothing else out of the ordinary; no freight companies.

M. Cochran advised that he has no issues with this Home Occupation Application for the firearms license. J. Jozwiak agreed; there are others already in the Town of Concord. D. Dains also noted that he is good with what was presented. J. Jozwiak made the motion, seconded by M. Cochran, to approve the Home Occupation Permit of Jacob Zelig for the Federal Firearms License, as detailed above. All in favor. Carried. Secretary Schweikert will forward Home Occupation Permit packet to Mr. Zelig for his records.

ITEM #6: Zelig – Home Occupation Cerakote

Jacob Zelig had submitted his Home Occupation Permit packet to the Board which included pictures from his current location on Heinrich Road in the Town of Boston.

- M. Cochran recalled that the members concern was whether the Cerakote process was manufacturing. This was discussed with Town Attorney Attea who stated that he would not classify this Cerakote process as manufacturing. M. Cochran believes that the Board could approve the Home Occupation Permit with restrictions as recommended by the Town Attorney: the exact size of the area, what he will be doing exactly; that he would not be doing anything more than what he is applying for.

- Chairman Edbauer reviewed the pictures of the current location and asked Mr. Zelig if he could provide a drawing of his new location. The new building is being constructed but there is a blueprint of the building. Scott Zelig, the applicant's father, noted that the garage area is described on the print; this Home Occupation would be in the new building; not in the existing barn on the property. It will be in the attached garage. Chairman Edbauer would like the dimensions of the location; Scott Zelig noted that the entire garage is 30' x 56'. Chairman Edbauer asked for an overlay of where the location would be; Mr. Zelig said he could do that; he will email it to Secretary Schweikert; marking out the area. The area would be about 800 square feet.

- Chairman Edbauer asked about solvents used and the disposal process. Mr. Zelig

advised that he only uses acetone and he stores it in a 5-gallon pail; he uses 2 gallons in a year so by the time it would need to be disposed of, it would've evaporated. It is used only to clean his spray gun; it is not used during the Cerakote process. He also noted that the proper disposal of acetone is to let it evaporate.

- There are no other emissions or odors.
- J. Zybert reviewed the map of the area to get a sense of where this parcel is with regard to the neighbors. Scott Zelig advised that the building is approximately 500 feet off the road and probably 500 feet from the nearest neighbor (John & Cindy Santonocito). Chairman Edbauer advised that the Town did receive some feedback from some of the neighbor. Mr. Zelig said that this is becoming a little personal; calling the Town of Boston CEO as well as calling Cerakote directly. He will just continue to dot his I's and cross his T's and cooperate with the Town in this process. Chairman Edbauer advised that some of the case law received from neighbors were not New York State regulations. Since this is public record, a copy can be provided to Mr. Zelig.
- J. Zybert is not familiar with this process. It is not bluing; but a thin coating? Mr. Zelig advised that it is basically a ceramic coating; it is a liquid not a powder; which is cured in an oven. The curing process time depends on what the material is: Wood and plastic is 3 hours at 180 degrees; metal is 1 hour at 300 degrees.
- Chairman Edbauer asked if the firearms had to be discharged to qualify it? Mr. Zelig advised that he does a basic function test without shooting it. Chairman Edbauer noted that one of the neighbor comments was that the firearm would need to be fired between 100 and 200 rounds after processing. Mr. Zelig said no, not if the process is done correctly with the correct thicknesses.
- B. Luno asked what the difference is between Cerakote and what was called bluing years ago? Mr. Zelig advised that this will last longer; it's more durable. It will never rust and is a lot more resilient to wear than bluing. He does not do bluing.
- Mr. Zelig has been doing this in the Town of Boston for about 5 years now. On average, how many would he do in a year on average? Mr. Zelig noted that it fluctuates; anywhere between 50 and 150 depending on size. They are not all guns.
- Chairman Edbauer noted that the picture sent in of the current location is 15' x 20'. The new one would be 800' sq feet? Mr. Zelig advised that he just emailed the floor plan to Secretary Schweikert and it shows the garage portion. Scott Zelig advised that the equipment would be more spread out in this new location just because there is more area. Mr. Zelig said he doesn't need much more space but the new location will give him more room so the equipment is not right on top of something else like in his current location. Mr. Zelig showed Secretary Schweikert the area that he is referring to on the print he had emailed.
- J. Zybert asked by razor stippling is. Mr. Zelig said he believes that this is a fiber laser. It is a dial that moves around and removes material. Stippling is molding plastics to be able to have more grip.

Chairman Edbauer asked Mr. Zelig to provide the Board with a revised letter detailing what he will be doing; this one says 15' x 20' feet. Mr. Zelig will also provide a screenshot and draw it on paper. Chairman Edbauer asked that the letter also state that all he will be doing is this Cerakote process; and no other intention of expanding into any other manufacturing. The Town Attorney recommended that the Board obtain this

information in writing from Mr. Zelig for the Town's file. If Mr. Zelig wants to do any other activity or change in activity, he would need to come back before the Board with another application. Also include the usage of acetone as discussed earlier this evening. Chairman Edbauer said that this matter will be tabled until next month so that Mr. Zelig can provide the requested information and the Board can review this with the Town Attorney. Mr. Zelig asked if the Board thought the Permit would move forward; Chairman Edbauer said that the Board is not saying no at this point; we're asking for more information. The September meeting will be September 3, 2024. Mr. Zelig and Scott Zelig thanked the Board and left the meeting at 7:33 p.m.

### DRYM Management

Chairman Edbauer advised that DRYM Management was not on the Agenda for this evening but they were here so he will let them address the Board. M. Cochran commented that this is every month that this is not on the Agenda and the Board spends 45 minutes and the Board is not getting through the Code update because they keep popping in with the latest development. This needs to be on the Agenda so the members know in advance of the meeting; you just show up and talk to the members. Chairman Edbauer continued that the members don't have information to review prior to any discussion. The Board is trying to get through the Code Update; Chairman Edbauer advised that he agrees with M. Cochran but is trying to be nice to Mr. Roberts and his group. Chairman Edbauer asked the members how they wanted to proceed; the consensus was that they were here; however, this is the last time this will be allowed. The matter has to be on the Agenda going forward so the members have a chance to review the documentation and talk intelligently about the project. Secretary Schweikert had emailed the site plan to the members on August 1<sup>st</sup> per Mr. Robert's request; noting that this is not on the Agenda for the August meeting but Mr. Roberts wanted it distributed for initial review and comments.

Mr. Holzman advised that the project has been modified since initially presented. It is now a total of 40 units; not 36 units. The two single family homes have been replaced with townhouses. Mr. Roberts advised the original plan was for 6 units in 5 townhouses (30 units) and six single family homes for a total of 36. The six single family homes have been converted into one townhouse. The building size has also changed to approximately 20 feet in width instead of 25 feet which allows for units of 8 to be installed now. Four buildings of six units and 2 buildings of 8 units for a total of 40 units.

Chairman Edbauer asked about the water and sewer. Mr. Roberts advised that at this time, they do not know the water supply because the Town won't look into it until the full plat plan is submitted; how can they go about their full plan until they know what the water supply is. Kissing Bridge Water District was designed to supply over 300 houses but has been mothballed since 1992-1993 when it was created. They are assuming that there is water availability there; if there isn't, there needs to be some investigation done on the Town's side to see what would be required to bring that up to

make 40 more units' worth of water available. The initial SEQR was submitted to MDA but MDA and Supervisor Drozd will not proceed on it until the final plat plan is received. MDA did receive the same site plan that was emailed to the Planning Board on August 1<sup>st</sup>. Chairman Edbauer advised that MDA will need to go through the plat plan for the Town because they have this kind of knowledge.

Mr. Roberts asked the Board for their questions and comments so that when they come back on the Agenda, he can be prepared. The members would like an entire packet to be reviewed. Chairman Edbauer noted that once MDA begins to review the plan, that should get something moving forward for the applicant. One of matters to be determined by the Planning Board is if the Board believes the project of townhouses can be done in the R-12 Cluster Housing zoning. This was discussed previously with the Board's consensus that they saw no problem with townhouses. Chairman Edbauer advised that he still is based on the limited information that he has at this time. B. Luno advised that the members would like a clear definition of the bends going in on the roads. Engineer Schenne reviewed the plan with regard to fire trucks; typically, they put a 30-foot radius where you come off the main road to come into the driveways. The driveways are not that long; he believes that most of the apparatus that the Town has can make the 30-foot radius but even if they couldn't, if they park on the main road, it's not that big of a deal to take a hose back there. M. Cochran, D. Dains and J. Jozwiak are firemen and said that it is a big deal. There was discussion about the size of the Town's emergency equipment and turning radius. There is a turn around at the end of the road; between building 5 and building 6 on the site plan. Engineer Schenne advised that if a 30-foot radius was going to be a problem, they could make a 40-foot radius.

Engineer Schenne asked if he could ask questions. Typically, what is seen in dozens of towns that they have worked in is the 400-foot spacing on fire hydrants; he didn't see anything in the Town Code that spells this out but that is what they expect to do in this project. That would meet the NYS Fire Code requirements of not being more than 400 feet away from a hydrant to the furthest building off the main road. J. Jozwiak believes that would go back to the Town to figure out what the water supply is there. Mr. Roberts advised that there is a 4-inch main up there. The water comes off the Bacon property; the ski slopes have a 12-inch water line that comes down under pressure from the 5-acre pond to supply the snow guns. This is where the existing Bridgetop fire hydrant is tapped into. They are looking to tap into that line and it supposedly has a lot of pressure under it because it is 200 feet above and 12-inch line. This parcel is lower than the Bacon's Pond. Chairman Edbauer doesn't think the Town has a requirement for hydrants; but the Town could make it more stringent than NYS Fire Code. Engineer Schenne advised that there is 200 feet ahead between the reservoir and the location which would give in excess of 90 psi which is plenty for a hydrant. They are intending to put two hydrants in; the farthest distance is about 900 feet away from the existing hydrant. Mr. Roberts advised that these would be Class 2 construction with cement walls dividing. 4-hour fire ratings between units; the same concept as Ridgeview. These units are two stories. Mr. Roberts showed the members the initial design of the buildings; elevations; the floor plans have not been finalized.

Mr. Roberts asked what else the Board would want from them to get on the Agenda: the definitions of the turn arounds, fire hydrants. The Board will need to review the Code; these members have never been involved with a subdivision request. Mr. Roberts hopes to come back at the September meeting. Chairman Edbauer stated that the Board needs to get the packet from DRYM ten days prior when the Agenda would go out; which should include the updated plan, turn around, fire hydrants. Chairman Edbauer noted that the Board will be relying on MDA a lot during this process; this is new to the Board.

D. Dains noted that one of the sticking points at this time is what the Town is doing with the water. Chairman Edbauer questioned sewer and Mr. Roberts advised that it would be connected to the sewer treatment plant; he noted that the Town is combining the two sewer treatment plants and that is well within the realms of that project. This would be gravity fed down the hill. Mr. Roberts said that if any of the members have any questions at any time during this process, they can reach out to him.

Chairman Edbauer advised that the sooner the Board received the information, the better. This will allow ample time for them to review prior to a meeting. Mr. Roberts will supply full sized plans for Secretary Schweikert and reduced sized copies for distribution to the members. Mr. Roberts believes that changes the location of the buildings by a couple of feet should not be a major issue. He will review the Code to make sure the setbacks are met.

Council Member Drake asked what their earliest completion date would be. Mr. Roberts stated that they would love to break ground before November so he could get a foundation in so he doesn't get snowed out until April 2025. One foundation done by December if the project could get approved to allow for that; otherwise, it will be Spring 2025. Mr. Roberts would like to do two buildings a year at a minimum for a span of three years for the total of the six buildings. That is what they are telling the bank for anticipated dates. They would like to try to stay ahead of that schedule. Council Member Drake was asking this because the new sewer plant may not go in until 2026. Basic construction of the road will need to be done first to allow access. Mr. Roberts noted that occupation of the first building may not be until Spring or Summer 2025. Mr. Roberts does not know what the existing capacity is of the current sewer plant; that's a good question. Chairman Edbauer thinks that question should be directed to MDA. Chairman Edbauer would like Secretary Schweikert to copy him in on any emails to MDA on this project so he is in the email chain. The first two buildings to be built would be six-unit buildings.

Chairman Edbauer said that if they had nothing else for tonight, the Board looks forward to getting the packet from them. Mr. Roberts will work with Engineer Schenne on these matters and get it back to the Board.

M. Cochran asked who will be plowing the road. Engineer Schenne said that this would be a public road dedicated to the Town. M. Cochran noted that the Town

Board would have to approve that. Engineer Schenne noted that their full intent is build it to Town specifications and go to the Town for dedication to the Town. M. Cochran advised that that has to be considered too. That is for the Town Board. There are other private roads in the Town that have not been dedicated to the Town. Council Member Drake advised that they are doing the right thing by doing it for Town specifications. MDA will need to be involved in that. The road construction information will be submitted as part of their plan with the complete set of drawings. Engineer Schenne noted that there are a couple of questions on the table that are difficult for them to answer; sewer capacity, water capacity. Need to make sure there is enough pressure, and the deal on the table to allow them to hook onto the Town's existing water district. These 40 units will consume somewhere around 12,000 and 15,000 gallons of water a day. The flipside is that that same amount of sewage comes out. Engineer Schenne's questions are: (1) the water capacity, and being able to tap in; (2) sewer, current sewer to allow for construction prior to the new sewer plant and future sewer; (3) largest piece of apparatus that the fire company owns and what they would consider as the minimum size for turn around there. Mr. Roberts will check with the fire companies to determine the largest piece of equipment and obtain their input; (4) road dedication; (5) fire hydrants. They are proposing two fire hydrants approximately 400 feet apart. If that is not, they would like to know; (6) Nailing down the Town Board to make sure that the road will be turned over to the Town. He'd like the Town Board to advise. Engineer Schenne advised that his contact information is included on the paperwork and the members can reach out at any time. They thanked the Board and left the meeting at 8:05 p.m. Mr. Holzman thanked the Board and noted that next time they will come with enough time for this matter to be on the Agenda.

ITEM #7: Code Update

Chairman Edbauer advised that there is not enough time tonight to do any work on the Code Update. M. Cochran said that is what he meant earlier. Chairman Edbauer said that the members should set up another date for just Code review. D. Dains said that if someone wants to come before this Board, they should submit their request before the Agenda is written so that the Board can review. When residents come in like tonight, pieces of their request come in here and there and it makes it difficult for the Board and then the matter gets tabled. M. Cochran told CEO Roberts that he is the one that has to handle some of that; he's permitting this to go on. B. Luno said it should be into the Board two weeks before the meeting. D. Dains agreed; if it's not in, then they wait for the next month.

Chairman Edbauer suggested meeting on September 11<sup>th</sup> from 6 to 8 p.m. Chairman Edbauer has the mobile home/manufactured home sections ready now. The meeting with Town Attorney Attea answered some of the questions but there are still a lot that are unanswered and needs review. One of the biggest stumbling blocks remaining is those Zoning Sections. Secretary Schweikert will try to get this in order for the September Code Meeting; Town Attorney Attea thought that there were a couple local towns that had the "cascading" uses in their Zoning districts but it does not. Secretary Schweikert reached out to General Code for some examples and was advised



that the task was harder than she thought. M. Cochran asked if the Board should start by trying to shorten the list of permitted uses; try to clean it up. Then there is the requirement of either an acre or 1.5 acres; not consistent in the lot size. Chairman Edbauer thinks that the C Districts will be easier and might be able to combine some districts. M. Cochran wondered if there would be any interactive capabilities? Could the Town do filtering? Build in pivot tables that people could use instead? Secretary Schweikert noted that Holland has tables built into their Code zoning uses. M. Cochran will try to reach out to General Code to see if she can assist. M. Cochran thinks he took care of the grandfathered lots matter; it could just be a simple statement replacing “grandfathered” with “pre-existing” and then non-conforming is a different situation. M. Cochran thinks that it’s just changing the definitions like saying: A pre-existing lot that is non—conforming in area by recorded deed prior to the date of this ordinance that meets Erie County Health Department regulations and existing setbacks, may be considered for a building permit. This is the Code definition with a couple of changes. Secretary Schweikert asked M. Cochran to email his specific information and she will send it along to the rest of the Board. M. Cochran thinks that General Code should have the capability of changing everything from “grandfathered” to “pre-existing.” Secretary Schweikert advised that once the Board gets through the legal analysis and first review of the Code Book, there is a file folder of miscellaneous items to be reviewed (definition of campground, signs definition of pedestal-things need to be cleaned up, then there was conversation about horses). Then when the Town adds or modifies certain Code Sections at random times to rectify one problem, the change makes something else not make sense. It will need to be determined if the Town wants to add some of this to the Code or leave it out; will adding language conflict with existing language elsewhere in the Code? Secretary Schweikert noted that once all the initial changes have been done, then the Board will need to review all the changes made again to confirm this is the final change for this update. The Town moving forward should put money aside in their budget so that the Code can be reviewed every couple of years and not have this much to review. The last Code update was 2017.

Chairman Edbauer asked if the members would be available for the September 11<sup>th</sup> date from 6 to 8 p.m. for this Code Update Work Session. The members agreed that this date will work.

ITEM #8: Business from the Members

1) Council Member Drake said that Supervisor Drozd wanted him to ask the Board had any interest in reviewing the Solar Special Use Permit again after hearing the comments from the next Public Hearing. M. Cochran questioned if the moratorium that the Town Board passed affected this project and Council Member Drake said no, it was already before the Town. The next Public Hearing is August 27<sup>th</sup>. Council Member Drake said he had told Supervisor Drozd that the Planning Board had already voted on the matter and sent it to the Town Board. Supervisor Drozd had noted that the Village of Springville sent a project back to the Planning Board for an additional review. Chairman Edbauer thought that the only thing this Board would do differently was send it to MDA Engineers and it is already there now. M. Cochran advised that the Planning Board

approved the project with reservations about all the concerns that were discussed at the first Public Hearing. Chairman Edbauer does not think this project meets our comprehensive plan and that should be discussed. Chairman Edbauer thinks that this Board did a pretty good job researching this project; went on site to look at another one. D. Dains noted that there may be other locations where this project could be; even behind the Zittel farm. B. Luno questioned where the line would be drawn for prime farmland. M. Cochran noted that the State defines what is prime farmland. Secretary Schweikert told the members that MDA has sent a list of an additional 27 questions to RIC Energy as part of the SEQR process and the Town is waiting those responses. B. Luno noted that one of the other owners, Ferguson, lives up on Genesee Road and maybe that parcel could be explored. This piece of land may not meet the criteria; it doesn't matter where the location would go, the neighboring parcel owners would have the same concerns. Chairman Edbauer believes that the answer to Supervisor Drozd's question is that the Board doesn't see much value in another review; unless something else comes up. Maybe the Planning Board would have some more questions after the 27 responses are received from RIC Energy. Secretary Schweikert will forward the 27 questions email to the Planning Board members.

ITEM #9:      Motion of Adjourn

J. Zybert made the motion, seconded by B. Luno, to adjourn the meeting at approximately 8:34 p.m. All in favor. Carried. The next regular meeting will be Tuesday, September 3, 2024.

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Darlene G. Schweikert  
Planning Board Secretary