

ZONING BOARD OF ADJUSTMENT  
TOWN OF PETERBOROUGH  
Monday, November 4, 2013 – 6:45 p.m.  
1 Grove Street, Peterborough, New Hampshire

Board Present: Jim Stewart, Bob Lambert, Sharon Monahan, David Sobe, Peter LaRoche. Loretta Laurenitis and Peter Leishman

Staff Present: Laura Norton, Office of Community Development and Dario Carrara, Code Enforcement Officer

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Chair Stewart called the meeting to order at 6:45 p.m. “Good evening and welcome” he said adding” this is the November monthly meeting of the Zoning Board of Adjustment. We normally meet at 7:00 p.m. but we have several sets of minutes to go through so we will do that first and be ready to start the meeting at 7:00.” Chair Stewart continued with “I am Jim Stewart and I am the Chair.” He continued to introduce the members and staff to his left and then to his right.

**Minutes**

May 6, 2013 - After review a motion was made/seconded (Stewart/Laurenitis) to approve the Minutes with minor typos or corrections with all in favor.

June 3, 2013 - After review a motion was made/seconded (Stewart/Laurenitis) to approve the Minutes with minor typos or corrections with all in favor.

June 10, 2013 (Site Visit) - After review a motion was made/seconded (Stewart/Laurenitis) to approve the Minutes with minor typos or corrections with all in favor.

September 4, 2013 - After review a motion was made/seconded (Stewart/Laurenitis) to approve the Minutes with minor typos or corrections with all in favor.

September 6, 2013 - After review a motion was made/seconded (Stewart/Laurenitis) to approve the Minutes with minor typos or corrections with all in favor.

At 7:03 p.m. with the Minutes approved Chair Stewart recused himself and left the table. Sharon Monahan introduced herself as the Vice Chairman noting “I will be acting as Chairman for this case.” Member David Sobe told Ms. Monahan he was recusing himself as Mr. Kaufhold “is a current client and customer of mine.” He got up and left the table. Acting Chair Monahan (Ms. Monahan) appointed Alternate members Bob Lambert and Peter LaRoche to sit. Both of these gentlemen noted they had a working or friendship connection to the applicant and abutters (this is a small town) with Mr. LaRoche additionally noting one of the abutters was a relative and that both he and Mr. Lambert were Cemetery Trustees. Ms. Monahan looked to Mr. Kaufhold and asked “do you feel there is any conflict of interest or do you feel allright with this?” adding “because we need a quorum to hear the request.” Mr. Kaufhold replied “no, there is no problem for me.”

At 7:03 p.m. Mr. Leishman arrived bringing the Board up to a full 5-member Board.

Ms. Monahan began with reading the Rules of Procedure and reviewed the process of reading the application followed by a presentation by the applicant; questions from the Board; questions/concerns from the audience (in favor then opposed); rebuttal and closure of the hearing followed by deliberation and decision. She concluded by noting that everyone interested would have an opportunity to speak and to please state their name and affiliation (abutter, agent, concerned citizen) for the record and to address all questions to the Chair. Ms. Monahan then read the notice.

### **Appeal to an Administrative Decision**

John Kaufhold is appealing an administrative decision by the Code Enforcement Officer, pertaining to an expansion of a non-conforming use, as regulated by Chapter 245, Article VI, Section 245-30 of the zoning ordinance. Mr. Kaufhold also requests a Variance for an accessory use of a property without a single or two family dwelling, as regulated by Chapter 245, Article VI, Section 245-6 A (1) of the zoning ordinance. The property is located at 10 Laurel Street, Parcel No. U018-087-000, in the Family District.

Ms. Monahan looked up and asked “are there any corrections, changes or additions to this notice?” With no response Ms. Monahan went on to address the request itself. “Because we have a request for an Appeal of an Administrative Decision *and* a Variance request we have to decide how to handle it.” After a brief discussion each member specifically noted to hear Mr. Kaufhold’s request for an Appeal first and then if necessary move on to his request for a Variance. It was noted that any testimony relevant to the Variance request would be duly noted and recorded for that application. Mr. Kaufhold noted his intent to withdraw the Variance request if his appeal was successful. Ms. Monahan asked Mr. Kaufhold to present his case.

John Kaufhold introduced himself noting he has “lived in Peterborough for 56 years” and hoped he had “another 30 or 40 in him.” He gave a brief biography noting his wife and two sons were in the audience to “make sure I do not forget something.” He also noted his friend, recused Chairman Jim Stewart, “has helped me with the request and may speak for me as well.”

Mr. Kaufhold went on to note “I am speaking for myself tonight but I do see why people hire lawyers. This is a complex ordinance for an average person like to me get through.” Mr. Kaufhold went on to describe his working relationship with retired Code Officer Tom Weeks and town administrators and staff through the years noting “and I expect to continue the same good relationship no matter the outcome of my request tonight.” He went on to say “before I go on I have a few housekeeping questions. The first thing is to confirm you have a 5-member voting Board and I see you do.” He also asked about the decision “will you decide tonight?” adding “I hope not because I would like you to do a site visit.” Mr. Kaufhold then reiterated that if his request was approved “the second part (of his application, the Variance request) becomes moot.”

Mr. Kaufhold continued by noting a site visit would help the Board “get a real understanding of the size, beauty and hidden qualities of the property.” He then gave a presentation on the history and background of the lot noting it was 1.41 acres at 10 Laurel Street. He presented a slide showing the property outlined in yellow “so you can see my property is almost two and a half times larger than the surrounding lots.” He noted the lot was surrounded by woods on three sides

with the building located in the front of the property. "It is unique" he said adding that while it sits in the Family District it has a commercial use predating zoning for self-storage. Mr. Kaufhold pointed out the wood frame structure was built in 1880 and converted to a storage facility in 1945. He gave a brief history of Robert Fish, longtime owner of the property who also ran a plumbing business there. He noted Mr. Fish's hobby of dogsled racing and that he housed his Huskies on the property for about 15 years.

Mr. Kaufhold pointed out the cellar foundation on the west side was built in 1960."Mr. Fish stored his trucks underneath with the possibility of building a house on top but that never happened. He closed his business in 1983 but the storage use continued."

Mr. Kaufhold told the members he bought the property in 1999, screening it in 2000 with a berm and plants and adding gate and fencing in 2001 and 2002. He noted his personal hobbies included collecting and restoring antique bikes and cars. "You may have seen me at the summer Cruz-Ins that I organize for the Rotary Club" he said adding "my cars take up a lot of space. I have stored them on the lot under tarps and tents since I purchased the property." He told the members that in recent years he has stored his vehicles in box trailers adding "I have three on my property but they have flat roofs that I have to shovel so this summer I was installing steep metal roofs to allow the snow to fall off when I was told by Dario that I needed a Building Permit and must stop work." He told the members he did stop and actually took down the partially constructed roof as requested. A member asked how long the trailer boxes had been on the property with Mr. Kaufhold replying "since 2005 but I did not get them all at once."

Mr. Kaufhold told the Board he was then told before he could get a building permit he would need to get permission for the trailers from the ZBA. "I expressed to Dario that I did not understand why all of a sudden I needed permission for private storage trailers." He noted he received a letter of clarification from Dario on October 3, 2013 (incorrectly dated October 15, 2013) "but it was still not clear to me" he said. He concluded that in meeting Dario's request "here I am to request an appeal of his administrative decision" adding "if you don't overturn that decision then I ask to be able to continue my private storage with a Variance."

Mr. Kaufhold noted four points of support for his request for an appeal of the Administrative Decision that included (1) his hobbies include antique autos that he uses for recreation which is an allowed use by §245-6 A-2, (2) the trailers do not meet the Code Officer's description of being "viewed as a natural and limited expansion of a non-conforming use" because they are not for commercial storage, they are for private storage, (3) that the Code Officer's letter also states my private storage "may have a substantially different effect on the neighborhood" is subjective and my contention is that it is seen as a positive effect on the neighborhood" adding "my private hobby does not cause substantially different effect and §245-30 A-1 says a use is allowed if *equally or more appropriate* to the zoning district than the existing non-conforming use, and (4) registered vehicles and trailers are legal to park on private property, especially when screened. "Those are the four things for the record" he said.

Mr. Kaufhold looked to the Board and explained he had additional information "but most of it applies to the Variance application." He told the Board he had reached out to his abutters with many responding favorably with a letter of support or by showing up here tonight." He distributed letters of support he had received in addition to two others already in the case file. He noted a

concern from one of the neighbors was that they could see into the lot as they walked by the foundation structure at the entrance. "I can understand this concern" he said adding "there is an old boat and VW bus there and it does not look good." He went on to explain how he intended to screen it and totally close it off from sight.

Mr. Kaufhold summarized what he thought to be the three major concerns to his neighbors. "Those would be traffic, future expansion and screening" he said.

Traffic:

Mr. Kaufhold referred to letters written in his behalf and support from Carol Nelson and Geoff Aldrich, who both store their antique vehicles on his property. He told the Board "let me say that private car storage on the property will mean no increase in traffic. I have been storing cars there since I bought the property in 1999, the only difference being I was storing them under tarps and tents." He told the Board he had researched several national studies on average trips per day generated by an average household. He noted "the range is 8 to 10 car trips per day." He went on to say he averaged *one* trip per day to his property "which is less than an average single family home and certainly far less than the plumbing company and in the winter there is not much activity at all." He said "people talk about the best and highest use for a property, for me this is a perfect use, storing my antiques cars, I love this property just the way it is."

Mr. Kaufhold noted he had been at a Planning Board meeting two months ago when they were discussing a proposed infill ordinance. "I learned my property meets the criteria to be able to subdivide the lot and put in another home." He went on to say he was not sure how he felt about the ordinance "but I would never want to see that happen to this property, it works perfectly for me the way it is."

Future expansion:

"I have none planned" he said adding "I have had enough storage space for the last 7 years" (*and*) "I also realize if I wanted to expand the existing non-conforming use I would be required to come before this Board for permission." He noted landscaping and batton siding on the barn were two projects he needed to complete. "I also plan to plant new Maple trees and disease –resistant Elm trees where I removed old Pine trees."

Mr. Kaufhold showed a slide of his property taken from the intersection of Routes 101 and 202 and pointed out the natural berm that acts as a noise barrier. He then highlighted a circle on his lot noting "here is the area of my private storage use" adding "this area take up about 2.1% of the total land area of the lot."

Ms. Monahan interjected "you mentioned 22 tenants?" with Mr. Kaufhold replying "yes, I have made my non-conforming use available for renters in the structures in the front." "Where are your cars?" asked Ms. Monahan. Mr. Kaufhold pointed out the area where he stored his vehicles. In reference to the two individuals who wrote support letters Mr. Lambert asked "are their cars in the barn?" with Mr. Kaufhold replying "yes,"

Screening:

Mr. Kaufhold noted "I have adequate screening" as he showed a series of slides depicting his lot from different angles pointing out the natural tree-line screening, planted evergreens and stockade fencing. He noted he planned to finish the siding on the barn and replace other trees he took down with disease-free Elm trees. "I could even put screening closer to Laurel Street to screen the old farm house if the Board would like" he said.

Mr. Kaufhold concluded by saying "I feel I should have the right to enjoy my private property by storing my antique cars where I do. There is no harm to the neighbors or their property values. I hope you will support my request to repeal the Building Inspector's ruling and let my 13-year practice of safely storing antique cars on the property to continue." Mr. Kaufhold thanked the Board as well as his neighbors, abutters and members of the public who have shown their support.

Ms. Monahan reiterated the decision was whether or not to repeal the Administrative Decision set forth by the Code Enforcement Officer in a Notice of Violation dated October 15, 2013. She then read the ordinance which states the Family District only allows "single-family and two-family dwellings and uses accessory thereto." She noted the violation noted the existing use of the property is for a non-conforming rental storage facility that was granted approval by the ZBA (Case No. 572 with modifications of the Conditions in Case No. 905). She noted the metal trailer boxes were seen as a natural and limited expansion of a non-conforming use that may substantially affect the neighborhood.

Jim Stewart introduced himself and told the Board "the issue here is a legal non-conforming use since 1945. He is allowed to expand under the ordinance as long as it *will not* have a substantial effect on the neighborhood" adding "John is kind of stuck here." Mr. Stewart noted "in fairness to the abutters and John I think you should do a site visit." Mr. Kaufhold agreed adding "decide on your own and you can only do that if you take a site visit."

Ms. Monahan noted she would like to hear for Dario Carrara, the Code Enforcement Officer. Mr. Carrara asked "do you have any questions for me?" Ms. Monahan replied "yes, what made you feel Mr. Kaufhold was violating the regulation?" Mr. Carrara replied "a neighbor reported it. I went to investigate and I did not see anyone but I heard pneumatic nails and saw something was being built." Mr. Carrara noted there were no closed gates or no trespassing signs "so I walked out back and found a couple of guys building a roof over two box structures. I told them they would have to stop." Mr. Carrara noted he researched the previous Decisions on the lot and looked at the use of box trailers. He told the Board he felt the trailers were an expansion of the non-conforming use. Mr. Carrara went on to say he was not convinced that there was no impact to the neighborhood "so I aired on the side of caution and told John he could appeal my decision or go to the ZBA for a Variance." Mr. Carrara told the Board "it is complicated. I would rather the Board make a decision" adding "that is the long answer." Ms. Monahan asked if he found other requests regarding the property and it was determined that there had been two requests for a Special Exception one in 2000 to construct four buildings for storage and one in 2001 to construct a second story on an existing building in 2000, both of which were denied.

Ms. Laurenitis asked about a letter written by Mr. Kaufhold in January of 2005 "that says the box trailers would be on the lot for approximately two months and the reason for placing them was to give him space to put his personal stuff while he repaired rotten floor boards in the barn." She looked up and said "that sound temporary" and asked "was that the first time you used the trailer box?" Mr. Kaufhold replied "yes it was" adding "I stored my stuff and when Code Officer Weeks asked me to move it, I did, to the back for personal storage use."

**Ms. Monahan thanked him and opened the hearing up to the public. “Let’s hear from those in favor first and please remember to state your name and affiliation.”**

Beth Alpaugh-Cote introduced herself and said “I have been over and from what I have seen I see no problem with it.”

Loretta Oliver introduced herself and asked “what about the cement building where boats and cars are stored?” adding “it is an eyesore.” Ms. Oliver told the Board she took pride in her property. She got up and pointed out the location of her home noting “I am right behind him on the corner. All on the top of the cement building with nothing to shield it, it is terrible. It is not a pleasant view, believe me.”

Jim Stewart introduced himself and acknowledged “John is taking steps to alleviate some activities that might have irritated people in the past. He is willing to admit it and he is willing to put up screening. He will screen to whatever the Board feels necessary to appease the abutters.” Mr. Stewart noted the trailer boxes in the back were currently well protected and screened “they are not going to be seen” he said.

Mr. Stewart also noted Mr. Kaufhold’s attempt to reach out to his neighbors noting “he is willing to work with them if they would just come talk to him.”

Mr. Lambert asked about a letter he wrote to the Code Officer in 2005 and questioned the reference to a “temporary storage trailer” and asked if his intent was to remove it from the property.

A brief discussion about past ZBA Decisions followed and whether or not the applicant had been consistent with the Special Exception granted by the Board in 2002 (Case No. 905) with alterations of the conditions from the original Decision granted to Beatrice Fish (Case 572).

Mr. Stewart raised his hand and said “point of order” as we explained “there is no criteria under our ordinance that would allow **XX**”

A review of the conditions of the Decision of November 8, 2000 followed with discussion about permitted storage (personal property and household items (with) storage of equipment or material associated with operating a business prohibited) and the maximum vehicle trips in and out per day which was ten (10). Mr. Kaufhold reiterated that he was storing personal and household items.

Retired Code Officer Tom Weeks introduced himself and noted a question may be if the Decision “meant the personal item of everybody.” Noting Mr. Weeks was the Code Enforcement Officer at the time of the Decision a member asked him if he was familiar with the case. Mr. Weeks replied “I have not looked at it.” Another member asked “what does “there shall not be any storage of explosive or hazardous materials?” mean?” Mr. Weeks replied “I cannot speak to that” adding “it could mean something like fireworks.” Ms. Laurenitis asked Mr. Kaufhold “in terms of the current property is there any gas storage?” Mr. Kaufhold replied “no.” When asked about keeping with the daylight hours for access Mr. Kaufhold said he had tried to maintain them. “Over the years I have had tenants going in and out at odd hours and got rid of them.” Ms. Monahan asked for clarification on the condition stating “the open bays of the garage may be used only for long term vehicular or boat storage but may not be used for any repairs on said vehicles.” Mr. Weeks interjected “the bays used to be wide open” (they have since been secured). Mr. Lambert asked if the trailers were registered. Mr. Kaufhold reported two of them were. Mr. Lambert the asked “is a registered vehicle a structure?” Ms. Monahan replied “that is a good question” as she looked to Mr. Carrara she asked “how would the code interpret that?” Mr. Carrara replied “what is important

here is to consider the use of this object. It would be helpful to determine the use of the box trailer and if indeed this is more than a natural and limited expansion of a non-conforming use.”

Ms. Monahan opened the public hearing to those opposed.

Jessica Sewell introduced herself and asked what are the rules about the number of unregistered cars can be on a property. “Are there limits?” she asked. Mr. Carrara reviewed the town regulation of two unregistered vehicles. Ms. Sewell then asked “did you move the one trailer on the left just for this?” Mr. Kaufhold was asked to reply but seemed confused “what did she ask?” he said. The question “was the trailer moved for this hearing?” was repeated with Mr. Kaufhold replying “no, not for this. I moved it about three months ago.” When asked when this whole thing started Mr. Kaufhold replied “about three months ago.”

Max Sewell introduced himself and noted the box cars were not pleasant looking “and putting a roof on them changes the idea of them being portable.” He went to note “and if it is OK for 3 what about 4? What about 6? He had permission for 2 boxes for 2 months and now he had 3.” Mr. Sewell concluded by noting the area that had been cut away from the berm on Route 101 with a resulting loss of a sound barrier.

Clark Ohnesorge introduced himself. He questioned Mr. Kaufhold’s personal use of the property when he has 22 tenants. He also pointed out the bays in one of the slides. He noted “those bays are for parking; he chose to leave his cars outside and rent out the space instead” adding “those boxes are rented structures.” He also noted one tenant coming and going at all hours of the night. “The site is open; anyone can use it out of hours. The curfew is not enforceable.” Mr. Ohnesorge concluded with “you cannot enforce or regulate it. It is an expansion of that non-conforming use bringing in more traffic and noise. It is a constant privacy thing” he said “devaluing the properties around it.”

Mr. Ohnesorge gave a brief history of the property from the Fish Plumbing Company to the present day storage facility. He noted that after the death of Mr. Fish the property was dormant “for some time” until a Special Exception was granted for a storage facility in the 1990 Decision (Case 572). “That was its first use” he said adding “and the Cobb’s rented it for storage.” Mr. Ohnesorge pointed out features of the property including burn piles and stumps from trees taken down. He concluded by noting “the personal and commercial use are getting woven together, he is using it to make money” adding “he has space out there on Burke Road. It is personal storage for John and commercial for his tenants and it is influencing our property values.” He concluded by noting the site was multi-use “and does not look very neat” with “a lot of stuff moved to the back over the past couple of months.”

A series of photographs were submitted for the record and for the members to see the construction equipment on the lot.

Geoff Aldrich introduced himself noting he was a tenant of Mr. Kaufhold. He gave a brief history of Robert Fish and his company. “I have been in Peterborough for 40 years and used Mr. Fish as a subcontractor” he said adding “and the look of the property from those days has vastly improved

since then.” He noted Mr. Fish lived across the street and kept all his supplies in the barn. “There was a lot of traffic up and down that street” he said.

David Despres introduced himself and complimented Mr. Kaufhold on his presentation. “Fantastic and presented with a golden tongue” he said. He told the Board he remembered “the Fish operation” and what has transpired since. He went on to tell the Board “what I see in a nutshell is an encroachment piece-meal plan” adding “how do you boil a frog? You start with cold water and warm it up, when the frog gets to that temperature you warm it more, bit by bit.” He concluded by reporting the fences were in poor repair with junk cars and construction equipment all around. “It needs to be stopped” he said adding “it is an encroachment on the neighborhood over there that is not allowed.”

Virginia Harbuck introduced herself and reported she has seen what is going on at the property and with regards to Mr. Despres she said “that gentlemen is correct he keeps doing and doing. Unfortunately it should never have been allowed to happen.” Mrs. Harbuck noted she planned to sell the house that abuts the lot and worried about the “selling effect and her property values.”

Wendy LaRoche introduced herself and noted she currently lived in the house Mrs. Harbuck (her mother) spoke about. “I have lived at the house for 15 years” she said adding and I have no harsh feeling for John. He is a good man who has done good things; I have a lot of empathy for the situation he is in.” Ms. LaRoche went on to say “but he has this business right in the middle of a residential area.” She noted as a single woman living there she did not always feel comfortable. She reported strangers coming through the woods and said “with things like that going on at night I don’t always feel protected.” She especially noted her empathy for Mrs. Vincent who spoke earlier. “She is literally 15 feet away.” In conclusion Ms. LaRoche noted the Police have been called on occasion and she hoped “you can see that he continues to use the land. It is residential but it is becoming something else.” She noted an annual tree cutting and land digging and said “I want to trust nothing else is going to happen, where do you draw the line?”

Mr. Lambert noted a condition of the November 8, 2000 Decision cited the vehicles accessing the property could not be longer than 18 feet. He also questioned whether or not the trailers had wheels on them. Mr. Weeks reminded the Board "whether the trailers have wheels or not is not the question" adding "you need to think about the use. What is the use and is it consistent with the use that was brought before the Board for a Special Exception in 1990. Remember Special Exceptions run with land."

Nanci Ohnesorge introduced herself and referred to a letter written by abutters in 1999. Ms. Laurenitis asked for clarity as the Board had not seen the letter. After a brief discussion Ms. Ohnesorge read the letter for the Board. 12-27-2000 Letter abutters closest to the property. When she was done Chair Monahan asked "how many abutters still feel this way?" A count of ten abutters raised their hand. Ms. Ohnesorge told the Board "we just want the property to stay within the non-conforming use, within the realms that were set up." She concluded with her concerns about safety and security. She noted incidences of strangers and seedy looking characters in the area. "We pick our battles and don't always come forward" she said. Ms. Ohnesorge concluded by noting the trailer boxes "absolutely have an effect on the neighborhood. It is a family neighborhood with children. It should be protected. We ask you to help us protect our property values." Ms. Ohnesorge presented the letter she had read for the record. "If you want to see future behavior, look at past behavior" she said.

Mr. Sewell noted the vehicular storage and asked "how are the garages being used now?" Mr. Kaufhold replied "personal property and household items" adding "there are four bays with cars, no boats." Mr. Sewell asked "so why are the box cars serving as garages?" Mr. Kaufhold replied "the bays were already rented when I bought the property, did not want to kick anyone out."

Ms. Ohnesorge asked "how many unregistered vehicles are on the property?" Mr. Kaufhold looked to Ms. Monahan and asked "is that pertinent?" Ms. Monahan replied "yes" and Mr. Kaufhold answered "two outside and one inside, but if the vehicle is inside it doesn't matter." Mr. Ohnesorge asked about a particular vehicle on the concrete area with Mr. Kaufhold asking "the Volvo?" and went on to say "no, it is in temporary storage and will be going to a garage for restoration."

Ms. Ohnesorge noted she was walking by one day and thought to herself what is the definition of a junkyard was "so I looked it up in the New Hampshire statute." She then paraphrased the definition to the Board. She concluded with "I am not saying this is an illegal junk yard" but suggested an opportunity to check it out through the statute.

Kristen Sargent introduced herself. She noted she lived directly across the street "in the old Fish residence." She told the Board "I had some wonderful points to make but they have all been addressed by the abutters" adding "we have all been here before." She noted her opposition to the activity across the street noting "it is my face everyday and affects the property values." She told the Board "there are people we don't know over there" adding they have called Mr. Kaufhold and the Police on occasion. "There have been countless incidences over the years" she said adding "and there is no evidence of things getting better, things are only getting worse."

Mr. Weeks stood and addressed the Board. "What you are charged with here tonight is decide whether or not the Code Enforcement Officer has made the right decision" adding "you have to step onto his shoes to see if he has intervened properly." He concluded "and take into consideration the property and the Special Exception granted previously. Are those boxes approved?"

Ms. Monahan cited another recent case involving a woodshed and whether or not it constituted a structure. A brief discussion about meeting setbacks followed with Mr. Carrara reminding the Board members to "focus on the use" adding "which is a natural and limited expansion of a non-conforming use that may substantially affect the neighborhood."

Ms. Sargent reiterated the previous request and denials before the Board in 1999 and 2001. Mr. Stewart restated "zoning allows for limited expansion of a non-conforming use" adding "I can see people are upset because it is the Family District but it is a legal non-conforming use." He looked to the Board and asked "are you going to deny him again? Does he need to keep coming back?"

A brief discussion about the visual impact to the neighborhood followed with an abutter noting "it is vast, go by and compare it to other homes. That one will stand out in the bunch." Mr. Despres interjected "the personal use of the trailer is getting intertwined with the commercial use. This is an *expansion* no matter what you name it." Mr. Despres then asked the Board to consider the impact to the neighborhood. "John traditionally nibbles away at the edges" he said.

Mr. Kaufhold stood and noted "I understand the concerns and I apologize." He agreed that at times it has looked bad "but it is a big property, all good things take time" he said adding he was doing most of the work alone. "That is just the way it is when you try to do things yourself." He then noted "a lot of unrelated material was brought up and I would ask you to focus on *this case* and

my request." He reiterated the private nature of the use and his request to "continue that private use." He thanked the Board and sat down.

Ms. Monahan stopped the meeting for a 5-minute break at 9:20 p.m.

The meeting restarted at 9:25 p.m. with Ms. Monahan reading the Rules of Procedure for deliberation.

### ***Deliberation***

Ms. Monahan began with a straw vote on whether to grant or deny the request for an appeal. She began with the ambiguous language of the ordinance but also noted the material she had sent out prior to the meeting. She said "he has had requests denied in the past. This tells me there is still an expansion of a non-conforming storage use and it could have a substantial impact on the neighborhood." She went on to say "Mr. Kaufhold had been denied before regardless of whether it was for buildings or trailers."

Mr. LaRoche replied "I see your point" adding "but I would need to look at the site."

Mr. Leishman replied "I am willing to support the Zoning Administrator's interpretation and schedule a site visit in preparation for the Variance application."

Ms. Laurenitis agreed, noting her support for the interpretation as well. She also noted the focus was the impact to the neighborhood "whether it is a trailer or a container or whatever" adding "I would like a site visit before hearing a Variance request."

Mr. Lambert agreed as well noting "I go along with the need for a site visit."

Mr. Leishman clarified "so no site visit to decide on the appeal but we feel it would be useful before a Variance request." A brief discussion about whether or not the Variance public hearing should be re-noticed (including abutters) followed. Mr. Stewart raised his hand from the audience and interjected "point of order" adding "the cost of re-noticing everyone is a financial hardship." After a bit more discussion the members agreed unanimously to re-notice the public-at-large (newspaper) as well as the abutters. "It is the best thing to do" said Mr. Leishman adding "it is cleaner that way."

A motion was made/seconded (Leishman/Laurenitis) to deny the request for an appeal to an Administrative Decision set forth in a correspondence to the applicant dated October 15, 2013. Mr. Leishman, Ms. Monahan and Ms. Laurenitis were in favor. Mr. LaRoche and Mr. Lambert abstained.

Ms. Monahan noted the Board would entertain Mr. Kaufhold's return for a Variance "we want to make that very clear" she said.

A brief discussion about scheduling a site visit prior to the December meeting followed with the Board agreeing such a feat could not be done without Mr. Kaufhold presence (he had left the meeting when Ms. Monahan closed the public portion). From the audience Mr. Stewart again raised his hand and noted he could speak to that on Mr. Kaufhold's behalf. Ms. Monahan declined his offer saying "no, the public is not here." She went on to note she would speak to town counsel about the correct approach to the hearing for the Variance. "I do not feel like arguing" she said adding "there is no harm in talking to town counsel." A motion was made/seconded (Leishman/Monahan) to continue the public hearing to a date and time certain of the first Monday in December with all in favor.

Following the crafting of the Decision a motion was made/seconded (Leishman/Monahan) to accept it as written below.

The meeting adjourned at 9:55 p.m.

Respectfully submitted,

Laura Norton

Administrative Assistant

## ZONING BOARD OF ADJUSTMENT

### NOTICE OF DECISION

**Case Number: 1198**

**November 4, 2013**

You are hereby notified that the appeal from an administrative decision, where the applicant, John A Kaufhold alleges that an error has been made in the decision, determination, or requirement by the Code Enforcement Officer on October 15, 2013 in relation to Article VI, Section 245-30 of the Zoning Ordinance is hereby **DENIED**. This decision pertains to the expansion of a non-conforming use as stated in Article VI, Section 245-30 D, on the property located at 10 Laurel Street, Parcel Number U018-087-000, in the Family District.

In reaching this decision the Board finds that:

The box trailers on the property are an expansion of a non-conforming storage use and could have a substantial impact on the neighborhood.

Signed,

Sharon Monahan, Acting Chair

Note: An application for rehearing on any question of the above determination may be taken within 30 days of said determination by any party to the action or person directly affected thereby according to the provisions of New Hampshire Revised Statutes Annotated, Chapter 677. Decisions for Variances and Special Exceptions shall become null and void in two years if substantial compliance with said decision or substantial completion of the improvements allowed by said decision has not been undertaken after the date of approval. If this decision becomes null and void, the owner must reapply to the Board of Adjustment for a Variance or Special Exception as provided for in §245-42 of the Peterborough Zoning Ordinance.