

TOWN OF OLD ORCHARD BEACH, MAINE
ADMINISTRATIVE BOARD HEARING
Tuesday, January 8, 2013
4:00 p.m.

An Administrative Review Board Hearing was called to order at 4:00 p.m. on Tuesday, January 8, 2013 the Town Council Chamber to consider administrative review.

The following were in attendance:

Town Manager Mark Pearson
Assistant Town Manager, Louise Reid
Code Enforcement – Jim Butler
Tina Morrison
Kenneth Lafayette
Police Chief Dana Kelley

Absent: Fire Chief John Glass
Gary Curtis
Marc Bourassa

Representing Kate's Homemade Butter was Attorney Timothy J. Bryant of Preti Flaherty Beleiveau & Pachios LLP, and Lucas Patry, son of the owner, Dan Patry. Residents in attendance included Harry Bailey, Ed Dimond, Greg Kidd, William Guest, and Mary Susan Jordan.

The Town Manager opened the meeting presenting the reason for us being here today and the desire to follow up on the two September meetings to the satisfaction of the neighbors. The general reaction from those in attendance was that there had been a fairly successful addressing of the variety of issues related to Kate's butter and the operation of business.

1. The size of the trucks being used in the neighborhood;
2. Noise associated with the trucks;
3. Scheduling of the trucks being operated;
4. Scheduling of outdoor work activities and the related noise of those activities.
5. Noise associated with the outdoor evaporator; and
6. The desire to have Kate's relocate to its new place of business in Arundel, Maine by a date certain in the future.

Kate's Homemade Butter in previous discussions had agreed to reduce the size of its delivery trucks, limit the hours that work will be done outdoors, and plant trees and install other sound barriers to reduce noise. In addition the company was asked to provide to the Town's Code Enforcement Officer, upon request, monthly progress reports on the construction of its 17,600-square-foot-facility in Arundel and to give the CEO permission to speak freely with the Arundel CEO about the project status. The company had planted a row of trees to dampen noise and reduced the size of the delivery truck and tried to limit outdoor work hours and erect and visual and noise barrier. For the most part there was an agreement that they had followed through on that which they had been asked to do in the previous two scheduled meetings. It as noted that Lucas Patry had been diligent about administrative board hearing - January 8, 2013 - Kate's Butter.doc Page 1 of 3

letting the Code Enforcement Officer know when there were issues so that the neighbors could be alerted to a change in schedule or any other infraction of the agreement.

The one concern mentioned was the noise level of the buttermilk silo which has a loud compressor fan. It was agreed that the Police Department would go over along with the Code Enforcement Officer this coming Friday to take a reading and the suggestion was that the reading be taken from the top of the silo rather than at the lower level.

A major part of the conversation was relative to the timeline for Kate's Homemade Butter to move into the Arundel facility. The Company did point out that the rental of a building in Biddeford for storage of some of their materials ends July 31st and that they hoped to be moved into the new facility prior to that date. Now under construction, the state-of-the-art manufacturing plant in Arundel would allow the Patry business to expand but because of some engineering issues with the construction of the roof, they are now in litigation and the roof has had to be replaced and is approximately 66% (2/3's) done. Until the roof is done and the engineering approvals are received they cannot begin to do the inner construction and the moving of equipment into the building. This was the issue not allowing them to be specific about a move in date. It was noted that they anticipate the new roof panels should be completed around January 18th.

Ken Lafayette, member of the Board, asked for confirmation that someone is living in the Old Orchard house hosting the business and Lucas Patry indicated that he is there almost full time. Other members of the Board encouraged the Attorney and the business owner to do everything possible to see that there is a more permanent and accurate time line for moving into the Arundel facility so that the neighbors will know when the matter is moving forward on a more current frame of reference. The discussion also revolved around what was the intention for the present location building (house) once Kate's butter moves out and although there was no direct statement of plan or intention, it was the consensus of the Board that although grandfathering may be a consideration, the ordinances have changed dramatically over the years and whomever purchases the property will need to be aware of the permitting requirements.

The Town Manager summed up the meeting by thanking the neighbors for their patience and their continued perseverance in the settling of the issues that have been raised and he praised the Attorney and the business owner for their diligence in following through on the issues still needed to be addressed. A meeting was scheduled for Tuesday, May 14th at 4:00 in the Old Orchard Beach Town Hall for a further follow up and a more definitive time frame for moving out of the present location.

In addition the following matters are to be resolved:

A reading of the sound level of the buttermilk silo is to be done in a timely manner by the Police Department and Code Enforcement Officer and that report provided to the neighbors and the business owner. The reading is to be taken from the top of the silo as well as the bottom of the silo.

Look into reducing the sound issues as appropriate.

Notification of sealing of the roof or exterior.

Meet again on Tuesday, May 14 2013 at 4:00 p.m. for another update on the issues discussed.

The Administrative Review Board Meeting concluded at 5:12 p.m.

Respectfully Submitted,



V. Louise Reid
Secretary to the Administrative Board

I, V. Louise Reid, Secretary to the Administrative Review Board of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of three (3) pages is a true copy of the original Minutes of the Administrative Hearings held on Tuesday, January 8, 2013.