

**TOWN OF TOWNSEND**  
**December 7, 2011**  
**Board of Adjustment and**  
**Council Meeting Minutes**

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**7:00 pm – Public Hearing**

- I. Call to Order:** 7:06 pm
- II. Roll Call:** Mayor Steve High, Attorney Fred Townsend, Engineer Tom Wilkes, Secretary Cathy Beaver
- III. BOA Hearing – Request for special exception**
  - a. Request to permit resident to run a catering business from her home @ 602 Hanson Court
  - b. Mayor High opened the meeting and introduced Valerie and Marc Sterling and thanked them for attending. He then turned the meeting over to Mrs. Sterling to speak.
  - c. Mrs. Sterling said she appreciates the board’s time for hearing her request. As she stated in the application, after reading the Town code she feels she does conform for a small business out of the home. She will be the sole employee and proprietor and will only use her vehicle and her husbands (if needed). She stated she has been through this before and was granted a variance where she lived in Pennsylvania.
  - d. Mr. Sterling stated this will be a small business that his wife is looking forward to doing, preparing food in the home. We do everything ourselves and want to follow all codes. We see the need for good food out here.
  - e. Fred apologized for being late to the meeting. He told Mrs. Sterling that she presented her application very well. He verified that Mrs. Sterling understood that if the Board approves this application that she understands she has to always stay within compliance of the rules and also has to follow all state laws and rules. If the rules and conditions aren’t followed, the license can be revoked.
  - f. Mrs. Sterling said she is aware of all of this. This is the first step in the process, if the Board approves her request, she will then contact the state who will come out and do an inspection and tell her what she has to do to meet the state codes. If the Board doesn’t approve her request, there is no reason to contact the state.
  - g. Fred said you stated in your presentation that no customers will be present, no signage or extra vehicles. There will be very little intrusion; your neighbors probably won’t even know you are doing this. Fred added that after other questions are presented from the Board and whoever is here for or against this business that he is prepared to support this request.
  - h. Mayor High added that not only will you be required to be licensed by the state but you will have to have insurance for your business.
  - i. Mrs. Sterling said they would.
  - j. Tom asked how the supplies would be delivered.
  - k. Mrs. Sterling said she will buy them herself.
  - l. Tom asked about marketing.
  - m. Mrs. Sterling said there will be marketing but no signs at the home.
  - n. Tom asked if they would have set hours of operation.
  - o. Mrs. Sterling said no, because of the nature of the work, it will depend on the event but we won’t cause any unnecessary traffic or noise.
  - p. Tom asked if they will need to do any modifications to the house for the business.
  - q. Mrs. Sterling said she doesn’t believe so; it will depend on what the state requires.
  - r. Tom asked if the catering will be just deserts, sandwiches or full meals.
  - s. Mrs. Sterling said it will be all of the above, again depending on the event.
  - t. Mayor High said he doesn’t want to assume the Sterling’s have an 18 wheeler coming in and out of the driveway, what type of vehicle do you have?
  - u. Mrs. Sterling said she has an SUV.
  - v. Mayor High read a letter received at Town Hall today objecting to the catering business being run from the home. They stated they do not see this business as being in the best interests of our property values and livelihood and asked the Board to please consider this in its decision regarding this matter.
  - w. Mayor High said he had to read the letter as the residents could not attend the meeting and the Sterling’s need to be aware it is out there.
  - x. Mayor High said he had no further questions; Mrs. Sterling really did her homework in presenting the case. He asked if there was anyone in the audience that would like to speak on this matter.

- y. Fred Mack said it sounds like everything Valerie (Sterling) has said meets the codes but will this open a can of worms making other people think they can run any kind of business out of their home. He made it clear that he doesn't object to this catering business, but is it good for the neighborhood?
- z. Fred stated that was an excellent question. Personally, he always looks very closely at applications like this with the neighbors in mind who bought in a residential setting and expects that no one is going to be running a business next to their home. Fred stated he tends to lean on the side on the neighbors and is very conservative before he is inclined to support an application like this. Most of these applications I am not very fond of, however; there is a set of standards in our codes that permit certain types of home business and based on what I've heard, I don't feel there is anything that will change the neighborhood. I don't feel there will be much intrusion in the neighborhood that will change the character of it, I would be concerned if they were hosting parties, had large vans with lettering on it outside the home, a lot of traffic in and out at all hours, lots of lights, feel neighbors have a right not to have to look at that and deal with it. In this case, I don't see any of this happening and believe the applicant seems sincere in what they are representing.
- aa. Carmen Mack asked if the Sterling's don't do as they say, can this be re-visited.
- bb. Fred said yes, if they fail to maintain compliance with the codes and anything else the Board adds to the conditions, their CO can be revoked to run a home run business.
- cc. Charles Ojevwe said he lives across the street at 603 Hanson Court and is concerned about the details of the catering business. If this is granted, they are naturally going to want the business to grow. I'm concerned because this is a cul-de-sac and I have small children that play outside. If the business grows and creates more traffic, would it then be considered an intrusion to the neighbors?
- dd. Fred stated he will read the stipulations attached to the request if the Board grants it. Fred asked Mrs. Sterling if she is limited in the amount of business she can do since she has no employees and no commercial kitchen. He asked Mrs. Sterling to tell the Board what limitations that will impose on her for this business.
- ee. Mrs. Sterling verified she has a regular stove with only one oven. She said it imposes a lot of limitations. It imposes her to have a small business. To address the concerns, starting a small business, yes, she hopes it will eventually grow, but living in a small Town and to stay in compliance with the Town codes, if the business grows I will have to move the business to a commercial location. We are small so we won't need all the commercial equipment.
- ff. Fred asked if she could cook for two parties to be held at the same time.
- gg. Mrs. Sterling said yes, depending on what kind of food the parties wanted.
- hh. Tom asked Mrs. Sterling how many people she could serve at one party.
- ii. Mrs. Sterling stated again that it would depend on what kind of food the people would want.
- jj. Fred read in our codes that a home occupation is permissible when the following conditions are met and approved by the Board of Adjustment.
  - i. A member of the family residing in the residence will carry out the occupation/profession contained in the home (which means you can't operate a business out of someone else's home).
  - ii. The occupation/profession will be carried out wholly within the principle building or a structure accessory thereto already existing on the property (which means you can't build an additional structure or garage to run the business).
  - iii. No more than one (1) non-family member can be employed.
  - iv. No more than 25% of the home can be used for a home occupation. (Can't make ¾ of her downstairs into a kitchen).
  - v. No customers visit the property. (This is a big one; people can't come to sample the cooking).
  - vi. No signs of any kind identifying the home occupation may be displayed.
  - vii. Deliveries are provided by vehicles no larger than a step van or panel type truck. (No large commercial vehicles can make deliveries).
  - viii. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced by the home occupation.
  - ix. The proposed occupation or profession does not violate any Town Ordinances and otherwise conforms to the requirements of this ordinance.
- kk. Fred added the applicant must always meet state requirements and be licensed by the State, or the Town can shut them down. The applicant must also obtain and keep a current Town business license (calendar year). Also he wanted to ensure the homeowner is aware that the Town of Townsend does not govern or

enforce deed restrictions, and with the granting of this variance, the homeowner's association could still shut them down.

- ll. Tom added that the residential zoning for this sub-division does allow special exceptions for home based business which is why we are here tonight. There was a concern raised about multiple home businesses. These are allowable on a case to case basis. Each homeowner would have to come before the board requesting a special exception variance which allows the Town to approve or dis-approve a request. If this application is approved tonight, it won't open the floodgates for anyone who wants to run a business from their home. The only home business permitted by our codes in a residential area is home occupation - residential, professional office or home daycare.
- mm. Fred feels this business will be much less intrusive to the neighbors than a home daycare.
- nn. Mr. Mack again stated he and his wife aren't against this home business, they just want assurance the rules are going to be followed.
- oo. Mr. Ojevwe agreed with Mr. Mack, isn't objecting to this business, just doesn't want it to intrude on the other families that live in the cul-de-sac. The stipulations take care of my concerns. I don't think it will cause any problems.
- pp. Mayor High asked Mrs. Sterling what her output would be with the type of equipment she has in her home to work with and how many people could she serve?
- qq. Mrs. Sterling said she could probably serve 100.
- rr. Fred asked if they had talked to any of the neighbors.
- ss. Mrs. Sterling said absolutely. She considered taking a petition around but once the neighbors received the letters from the Town some of them approached me and were very positive about my business.
- tt. Mr. Rocke asked what the Town responsibility is for notifying neighbors of a home business.
- uu. Fred stated the Town sends letters to residents within 200 feet to notify them of the hearing.
- vv. Mr. Mack said this was mentioned at last meeting, no names or what type of business, but that someone in the development was asking to start a home business. We didn't know who was doing it until we received the letter.
- ww. Fred said the resident isn't obligated to talk to the neighbors of their intention, only asked the question out of curiosity.
- xx. Mayor High stated for the record that the fee for this special hearing was made on November 10, 2011, that is when it became official, before that it was only a rumor.
- yy. Sandy added that Mr. Green mentioned this at the last meeting to make Council aware of the possibility.
- zz. Mr. Rocke asked why they even need a variance.
- aaa. Tom stated they need the variance because of the zoning requirements. It also gives the Town more control over affecting neighbors.
- bbb. Fred added that they could have just started doing it and unless someone complained about it, we would never know. That isn't something you want to happen in your community and I commend the applicant for wanting to do everything above board.
- ccc. Fred motioned, Tom seconded to allow a home occupation at the Sterling resident at 602 Hanson Court subject to the conditions in section 66-241, sections A-I and note that if they fall out of compliance with any of the conditions the permit will be revoked.
- ddd. Vote: Fred – aye, Tom – aye, Mayor High – aye. Vote unanimous.
- eee. Mayor High congratulated the Sterling's and told them they can start the process and must get a business license in Town once all state requirements have been met.
- fff. Fred and Tom wished the Sterling's good luck.

#### **IV. Adjournment:** 7:55 pm meeting adjourned.

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#### **7:30 pm – Council Meeting**

**I. Call to Order:** 8:02 pm

**II. Opening Ceremonies**

- a. Roll Call: Mayor Steve High, CW Sandy Sturgis, CM Dwain Haines, Attorney Fred Townsend, Engineer Tom Wilkes, Manager Dawson Green, Secretary Cathy Beaver.
- b. Mayor High added that CM John Ness is on vacation which has been scheduled for months. CW Karen Jennings called an hour prior to the meeting and said she had a family emergency. Therefore, there is no quorum; we can't vote on anything, we can only discuss the items. Had the same scenario at out last workshop, 2 council members were not present.
- c. Pledge of Allegiance: The pledge was said.

- d. Recognition of Visitors: Mayor High had the visitors introduce themselves: Marc and Valerie Sterling - TVII, Carl and David Schultz with Safari Snow removal, put a bid in for the Town snow removal, Larry Rocke - Commerce Street, Carmen Mack – TVII, Richard and Lorraine Gorman – TVII, Charles Ojevwe – TVII, Fred Mack – TVII, Kim – Middletown Transcript and Quinn Johnson – State Representative.

**III. Additions/Deletions to Published Agenda:**

- a. Sturgis asked to table everything that needed decisions, no quorum, can't vote. Add them all to the workshop on Wednesday, December 14, 2011 at the Town Hall.

**IV. Council Minutes – November council minutes approved at workshop (copies on back table)**

**V. Unfinished Business**

- a. Mr. Kings request – Mayor High - tabled  
b. New Town Hall – CW Karen Jennings - tabled  
c. Board of Adjustment and Zoning/Planning Committees – CW Sandy Sturgis - tabled

**VI. New Business – No new business**

**VII. Reports of the Officers**

- a. State Police: Lt. LaMarche – not here  
b. State Representative: Quinn Johnson
- Happy Holidays!
  - The railroad crossing is finally being done. Sadly mother nature isn't co-operating, may take a little longer to complete.
  - A huge employer is coming to Middletown, Amazon.com. This new site won't affect any of their other sites, none will be closed down or lay off employees. They will be just south of the Auto Mall on Route 301. It will be a total of 1.2 million square feet, larger than the new Super Walmart in Smyrna. It will have 64 loading bays, 126 parking spaces for trailers, 2,000 parking spaces for employees, 849 full time employees, up to 2,500 employees with seasonal help. This is huge for the area, will also help secondary business that will be supporting amazon, restaurants, etc. This is also a great accomplishment for the state, we competed with 11 other states for this business. We got it because they were impressed with how quick Middletown was with the infrastructure. They want to occupy the facility and be up and running by September 2012.
  - Christiana Hospital on Rt. 299 has also broke ground. Health South will be building at the same time.
  - Johnson Controls is up and running at full speed.
  - Start back in session on January 3, 2012. The 301 bypass will be a major discussion as we don't want to lose the funds. The finance report will be done and presented right away, but it isn't a definite.
  - It is projected we will go into the New Year with a deficit.
  - Think people are getting more comfortable with the economy. Need to get everyone back to work.
  - I will be your State Representative until November. After the elections the newly elected representative will take over this area. You will still see me and can call me for anything.
- c. Townsend Fire Department: Jeff Dawson
- Sunday, December 18, 2011 is breakfast with Santa. There is a minimal charge, Santa will be here 8:00 am – 10:00 am. Breakfast is 8:00 am – 10:30 am.

**VIII. Reports**

- a. Attorney Fred Townsend III:
- Sent an email to the Mayor and staff, if Council wants to permit outside storage on Cannery Lane I can come up with verbiage for it.
  - Mayor High stated we should be able to let Fred know at the workshop.
- b. Engineer Tom Wilkes:
- Streetscape is still at DelDot. Hope to start in spring or summer.
- c. Manager Dawson Green:
- Open snow bids and award contract – tabled to workshop
  - Contacted by waste industries yesterday, interested in changing trash pickup from Wednesday to Monday. Won't start it until after the New Year.

- CW Sturgis said she has no problem with it; we will just have to inform the residents.
- Mayor High told Mr. Green to notify residents in all ways possible, post flyers, put on website, etc.
- Mayor High said Middletown sent a crew down and hung our Christmas decorations for us. He officially thanked them on the record.

**IX. Committee Reports**

- a. Finance Committee: Chair – Mayor Steve High
  - Billing Software Update – tabled
  - Total assets - \$3,826,667.41
  - Total liabilities & equity - \$3,795,594.19
- b. Streets Committee: Chair – CM Dwain Haines
  - Talked to Tom Little with the railroad, if all goes right they should be done with the railroad tomorrow (Thursday) night, Friday at the latest. They are working through the rain.
- c. Zoning Committee: Chair – CW Sandy Sturgis
  - Request for outside storage on Cannery Lane – tabled to workshop
- d. Health & Public Welfare Committee: Co-chairs: CM John Ness & CM Dwain Haines – nothing.
- e. Storm Water Management: CW Sandy Sturgis – nothing.
- f. Energy & Environment Committee: Chair – CW Karen Jennings – not here
  - Townsend Wildlife Habitat Project
  - Astronomy Night in the Park
- g. Veteran Affairs Committee: Co-Chairs – CW Karen Jennings & CM Dwain Haines
  - CM Haines said there are a lot of coupons in to be sent to the veterans overseas. Said he appreciates all who bring them in. He brings them himself.
  - Project 19734 Soldier Support – care packages
  - Mayor High said he got some addresses for the local veterans overseas.
- h. Police Committee: Chair – CM John Ness – not here
  - Townsend Community Watch
- i. Parks & Recreation Committee: Co-chairs - CW Sandy Sturgis & Mayor Steve High
  - NYE Party – 12/31/11 – 8:00 pm – 1:00 am
    - I. DJ Jammin’ Jeff
    - II. Fiesta theme
    - III. Food, beer, champagne toast at midnight
    - IV. \$40.00 per person - \$75.00 per couple

**X. Announcements:**

- a. The December workshop will be held on Wednesday, December 14, 2011 @ 6:30 pm @ the Town Hall
- b. Town Hall closes at noon on Thursday, December 22 and is closed Friday, December 23 and Monday, December 26, 2011 for Christmas. Have a Happy and Safe Holiday.
- c. The Town Hall will be closed Monday, January 2, 2012 for New Year.

**XI. Citizens Comments & Participation – None.**

**XII. Adjournment:** 8:30 pm by general consensus.