

**GRAND JUNCTION BOARD OF APPEALS**  
**August 13, 2008**  
**12:00 p.m. to 12:47 p.m.**

The regularly scheduled Board of Appeals meeting was called to order at 12:00 p.m. by -Chairman Roland Cole. The public hearing was held in the City Hall Auditorium.

In attendance, representing the Board of Appeals, were Roland Cole (Chairman), Travis Cox, Patrick Carlow and Ken Sublett. Mark Williams (Vice-Chairman) arrived at 12:07 pm.

In attendance, representing the Public Works and Planning Department, were Greg Moberg (Planning Services Supervisor) and Judith Rice (Associate Planner). Jamie Beard (Assistant City Attorney) and Dan Sheppard (Code Enforcement Officer) were also present. The minutes were recorded and transcribed by Bobbie Paulson.

Four citizens, including the applicants, were present.

**I. APPROVAL OF MINUTES**

Available for consideration were the minutes of February 13, 2008 hearing.

**MOTION: (Ken Sublett) "I move to approve the minutes."**

The motion was seconded by Travis Cox. A vote was called and the motion passed by a vote of 4-0.

**II. ANNOUNCEMENTS, PRESENTATIONS AND/OR VISITORS**

There were no announcements, presentations and/or visitors.

**III. FULL HEARING**

**MSC-2008-195 MISCELLANEOUS – Home Occupation Appeal**  
**Request to grant an appeal by the homeowner for the denial of a Home Occupation Permit for a welding business on .55 acres in an R-R (Residential Rural) zone district.**  
**PETITIONER: Lloyd Norlin**  
**LOCATION: 2934 G Road**  
**CITY STAFF: Judith Rice, Associate Planner**

## **STAFF PRESENTATION**

Judith Rice, Public Works & Planning Department, gave a PowerPoint presentation of the request to grant an appeal. Ms. Rice stated that the applicant is requesting the Board of Appeals to overturn the Director's denial of a Home Occupation Permit for a welding business located in a R-R (Residential Rural) zone district at 2934 G Road.

On June 9, 2008, the Public Works & Planning Director informed the applicant that a proposed Home Occupation of welding and fabrication, located at 2934 G Road, would not be allowed. Staff received the appeal letter June 19, 2008 from Dan Norlin, the owner of the property. This appeal is per Section 2.18.C of the Zoning and Development Code which specifies that the Board of Appeals is the appellate body for administrative decisions regarding Home Occupations.

Ms. Rice provided a chronology of events in her staff report that lead to the appeal.

This site is located at G Road and to the east of 29 ½ Road and south of the Colorado Canal. There is a vacant lot across the street and a subdivision to the east and south of G Road. The future land use map shows that all of the lots north of G Road are rural and the lots south of G Road are Residential Medium 4 to 8 dwelling units per acre. Our existing zoning north of G Road is Residential Rural and to the south, directly to the south of the site, is R-5.

The planning division issued a planning clearance for a shed/shop on August 25, 2006. Code Enforcement Officer Dan Shepherd received a complaint about noise and outdoor welding from a neighborhood property and upon inspection he issued a voluntary compliance request to cease the welding and fabricating business. This request was issued on April 8, 2008.

A second voluntary compliance request was issued on April 30, 2008. The property owner requested an extension at that time and was granted an extension to June 16, 2008. On June 3, 2008 there was a meeting regarding this site with the applicant and staff being Ivy Williams and Dale Shepherd. As a result of that meeting a letter was sent to the property owner denying the home occupation permit. The homeowner then sent the City a letter requesting an appeal.

Our findings of facts is that the reversal of the director's decision would be in direct conflict with the intent of the zoning and development code per section 4.1.H.3 of the Zoning and Development Code which lists several activities that would not be acceptable as a home occupation and among those are a machine shop, metal working, and contractor shops.

Ms. Rice referred to a letter received from Mr. Norlin (Exhibit 4) that describes the work that he does which is metal work and he also describes hours worked. Planning clearances are issued regularly for shops and sheds in residential zones. If staff was aware there was a business at this property when issuing a

planning clearance, they would have also looked into issuing a home occupation permit.

Staff recommends that the Zoning Board of Appeals deny the appeal to overturn the director's decision to deny a home occupation permit per section 4.1.H of the Zoning and Development Code with the findings and conclusions that you'll find in the staff report.

### **PETITIONER'S PRESENTATION**

Mrs. Norlin stated that he had been running his business for two years and said that he thought that the business was legal. Mrs. Norlin explained that when they first applied for a permit to build a shop, the county granted the permit. The County showed up for the inspections so we thought we were in the county. It wasn't until we met with Ivy Williams and Dan Shepard from Code Enforcement, that we found out that the County issued the building permit but the property is actually in the City. One of the letters we received stated that we have two employees and we are not allowed to have two employees. Mrs. Norlin stated that they do not have two employees. We have had are nephew help us out part time off and on. Mrs. Norlin stated that her nephew was living with them for a month in which time he was helping with the business.

We don't know what our options are. Mrs. Norlin stated that obviously we're in a situation where if you shut us down in ten days, we'll lose everything. This business is our living. We have put our house up for sale so we can move to a place where the business is allowed.

Mrs. Norlin stated that since they received the notice, they have tried to be less offensive to the neighborhood. She stated that they have moved the equipment to the back of the shop. She stated that the business has never started before 8:30 in the morning. We don't have any large industrial equipment. We're just a small shop.

Mrs. Norlin requested the Board to consider allowing them to continue their business until they can work something out with the City.

### **QUESTIONS**

Mr. Carlow asked for clarification that their house is currently for sale?

Mrs. Norlin replied affirmatively.

Mr. Cox asked when the property was annexed into the City. Ms. Rice replied that she was no sure.

Mr. Cox asked if there are any residential zones in the City that allow a metal working type business? Ms. Rice replied, no there are none. Mr. Cox asked if the County allows this type of business in any of their residential zones. Ms. Rice replied that she did not know of any.

Ken Sublett asked if the City could allow a home occupation permit for a limited time to allow the owner to continue operation until he could find a new location.

Mr. Moberg replied that the board needed to make a decision regarding the appeal. Once this has been done; the applicant would then have the option to come back to planning staff to work out details.

Mr. Sublett asked staff if there are any provisions allowing us to grant a home occupancy permit for a limited time? In other words, if this situation could be sorted out in a couple months to everyone's satisfaction, then we might be better off if we're able to do that to do it that way.

Mr. Moberg explained that the request before the Board is the appeal. If the decision of the director is upheld, then at that point the applicant or the owner could come back to Planning to request an opportunity to allow something that would be temporary but that would be another process if in fact there was that opportunity.

Ms. Beard stated that according to the City's annexation map, this area was annexed in 1999.

#### **PUBLIC COMMENT**

Sally Garver, stated that she lives next door to Mr. Norlin and that she doesn't have any problems with his home occupation business.

Gary Teal, 2937 G Road, stated that he lives east of the subject property. He has watched the business grow and it's grown to the point that it needs to move into a commercial/industrial area. He said the noise from the welder, the welding light and the semi trucks coming and going have disrupted the quiet residential neighborhood.

#### **REBUTTAL**

Mr. Lloyd Norlin stated that he is the owner of the shop. He said his business has run into the late hours but since the original complaint, he has limited the time to day light hours and has moved his equipment behind the shop. He added that this has cut down on his business. Mr. Norlin stated that at the time he applied for the building permit for the shop, he was told he would need a conditional use permit for a welding business.

Mr. Cox asked Mr. Norlin for clarification. Did you go to the City to get a planning clearance and to the County for a building permit?

Mr. Norlin replied affirmatively and that the county was okay with the business.

After some discussion, Mr. Cox asked the applicant if he thought because he had permission to build his building, it was also permission to run his business.

Mr. Norlin replied affirmatively.

Mr. Norlin stated that the first time he met with Code Enforcement, Mr. Shepherd, was after he received a letter in the mail from him. I contacted Mr. Shepherd and met with him at his office. That was the first time I realized my business was not legal.

**DISCUSSION**

Chairman Cole stated that he felt given the testimony and evidence that he would uphold the decision of the director. He encouraged the applicant to meet with Planning staff to work out a compromise.

**MOTION: (Commissioner Sublet) “Mr. Chairman, on item MSC-2008-195, I move that the Zoning Board of Appeals grant the appeal request, reverse the director’s decision and remand the matter back for further consideration of a permit.”**

Mr. Cox seconded the motion. A vote was called and the motion failed by a vote of 0-5.

With no further business to discuss, the meeting was adjourned at 12:47.