

LAKE CHAFFEE IMPROVEMENT ASSOCIATION INC
DIRECTORS MEETING
WEDNESDAY OCTOBER 10, 2007
6:30 PM -- CHAFFEE HALL

President Chris German called the meeting to order at 6:40 p.m.

In attendance: Chris German, Jay Schroder, Laurie Layton, Mary Michaud, Gerry Dufresne, Sandy Moquin, Debbie Coulombe, Tom Martin, Steve Donnell and Bob Layton

SECRETARY'S MINUTES

Bob Layton moved to approve the minutes from 9/12/07 LCIA Board of Directors meeting, Jay Schroder seconded. Motion carried with two abstentions.

TREASURER'S REPORT

- Mary requested we approve putting \$15,000 of the \$17,949.20 from the Lake Maintenance fund into an interest bearing CD.
- \$70 was made from tag sale.
- Gerry Dufresne made a motion to approve the treasurer's report and it was passed.

BINGO COMMITTEE

- Jack Pirzl reported that 44 people were in attendance the prior week, 36 players plus kids
- \$326 made during prior month
- Still need workers
- A reminder was made that there should be no parking from 4-10 p.m. at the hall due to bingo.
- Bingo report was approved

KITCHEN COMMITTEE

- Kay Warren reported that application was needed for 10/11/07. She requested she be reimbursed for the fees and Gerry moved to reimburse and Mary seconded. Motion carried unanimously.
- Kay also reminded us that because it is a public building-we need licensed electrician and plumber
- We also need a mop sink.
- It was suggested that a financial progress report and further estimate of expenses be forthcoming at the next meeting

BEACH COMMITTEE

- Jay Schroder reported that he had the permit to exchange the sand.
- It was reported that there was heavy equipment on the beach and it was determined that Chris German gave permission to Dick Ides to allow the equipment on the beach while trees were trimmed and removed (on the adjacent Ide property),
- Debbie Coulombe said that permission should have been granted by the board, not an individual board member. The board concurred.

CONSTABLE REPORT

- Gerry reported he was unable to catch the ATV offender but will continue trying and asked for everyone's cooperation.

ROAD CHAIRMAN

- Gerry Dufresne reported that Maple Drive drainage problems cannot be fixed by Hipsky. A birm is needed. He will look into it and request volunteers to assist.
- Pine Hill-question of a curb came up as fixing the erosion problem.
- Westford and Union - swales were discussed

- Paving quotes of \$2.50/sq ft was discussed.
- Paving Westford (Cody House) to bottom \$2450 swale, \$9450 to pave|
- It was agreed to look into oiled roads (basically tar and gravel) as an alternative to asphalt.
- Grading roads costs \$600 per incident
- Plowing contracts were discussed. Jay Schroder was asked to step outside as he had submitted bid. It was agreed that further bids should be sought and that the secretary place an ad in the Reminder requested bids be submitted by 10/26/07 and that interested parties should call the Road Chairman.
- It was agreed that we would have a special meeting on 10/29 to deal with any new bids in addition to Jay and Bob Campbell.

ENVIRONEMTNAL CHAIRMAN

- Diana was not present.
- Purple loosestrife can be pulled up by roots.

FINANCE COMMITTEE

Eugenie Bagley was not present. No report.

VOLUNTEER & STRATEGIC PLANNING COMMITTEE

Motion was made and seconded to have Steve Donnell chair the committee to establish a pool of volunteers and a plan going forward as to projects.

SOCIAL COMMITTEE

Tom and Elaine Burns were sponsoring block party taking place on Maple Dr 10/13/07

FUNDRAISING COMMITTEE

Sandy Moquin reported we would not have a tag sale so close to the bazaar so as not to interfere.

CORRESPONDANCE

- Letter from attorney Devlin on Kay Warren's behalf stating that snowplowing on Amidon Drive has been inadequate for the past two years and that they (Warrens) had been unable to leave their home for three days as a result. The letter recommended we not use RDC Home Improvement again for snow plowing and if we did and poor performance was repeated legal action would be taken [[see attachment](#)].
- The board believes that the inadequate snow plowing is the result of residents parking their cars on the association road in violation of our ordinances.
- It was decided that the Road Chairman would send a certified letter to the Amidon Drive residents responsible for the illegally parked vehicles and then enforce the \$60 fine required by the LCIA ordinance.

OLD BUSINESS

Bob Layton distributed copies of proposed home-based business ordinance ([see attached](#)).

NEW BUSINESS

No new business issues were brought up.

PUBLIC TO BE HEARD

None

Meeting was adjourned at 8:55 p.m.

Respectfully submitted,

Laurie Layton, Secretary

DEVLIN, PETERS & TARPEY, LLC
ATTORNEYS AT LAW

MICHAEL J. DEVLIN
KERRY A. TARPEY*
ANNMARIE ALEXANDER*

JOHN A. BOND, JR.

*also admitted in Massachusetts

ROBERT F. PETERS - retired

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September 21, 2007

Lake Chaffee Improvement Association, Inc.
Mr. Christopher German, President
P.O. Box 231
Ashford, CT 06278-0231

Re: Ineffective Snow Plowing on Amidon Drive

Dear Mr. German:

Please be advised this office represents Ms. Kay Warren of 31 Amidon Drive, Ashford, Connecticut in connection with snow plowing concerns/issues relative to Amidon Drive.

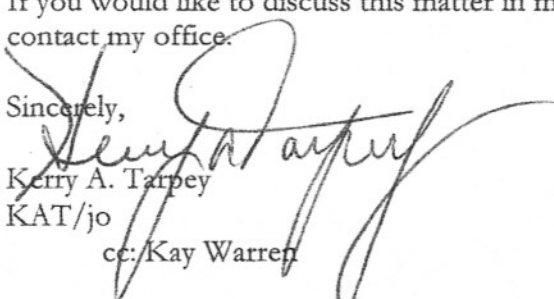
It is my understanding for the past two years, RDC Home Improvement, LLC has been the snowplowing contractor used for the Lake Chaffee area, including Amidon Drive. Furthermore, I am aware that this past Winter season residents of Amidon Drive were unable to leave their homes for three days because of dangerous driving conditions due to ineffective snow plowing during a heavy snow/ice storm.

Please note, Mr. German, as president of the Lake Chaffee Improvement Association, Inc., it is your responsibility and duty to decide which companies to bid from for the snowplowing. I suggest that the Association not choose to use RDC Home Improvement, LLC as their company has proved to create hazardous conditions for the residents of the roadways which they plow. I will further suggest that a reputable snow removing company be chosen for this year's Winter season to ensure clear, driveable roadways.

Should my client should have difficulty leaving or getting to her home this Winter season because of a poor plowing job, this office will have no choice but to take further legal action.

If you would like to discuss this matter in more detail or if you have any questions, please contact my office.

Sincerely,


Kerry A. Tarpey
KAT/jo

cc: Kay Warren

**Treasurer's Report
INCOME**

	Actual As of 10/10/07	Treasurer's Approved 2007-2008		
Association Taxes	12,750.00	\$ 30,000.00		
Past Due Assoc. Taxes	1,225.00**	3,196.43		
Penalties	400.29 **	1,000.00		
Interest	10.17	300.00		
Donations	130.00	500.00		
Rentals	0.00	600.00		
Bingo – Kitchen (\$171.99)	932.51	5,000.00		
Sealed Tickets	219.77	800.00		
LCIA Fundraisers	70.00	400.00		
Fish Donations	0.00	300.00		
LICA Fund (Bazaar)	913.00	1000.00		
Newsletter (Ads)	0.00	500.00		
Road Bond Money	0.00	500.00		
Web Site	0.00	0.00		
Total Income	\$ 16,650.74	\$ 44,096.43		
EXPENSES	Actual 10/10/07			
Building Maintenance	\$ 230.00	\$2,750.00		
Utilities	311.78	5,000.00		
Office Expense	319.26	1,000.00		
Postage	123.00	250.00		
Road Maintenance	0.00	21,399.93 *		
Insurance	0.00	9,400.00		
Honorariums	0.00	0.00		
Contingency	0.00	400.00		
Audit	0.00	0.00		
Legal	0.00	1,000.00		
Recreation	0.00	300.00		
Beach Maintenance	185.70	1,500.00		
Lake Maintenance	120.00	500.00		
LCIA Fund	0.00	500.00		
Lake Maint. Fund	0.00	500.00		
Fish Fund	0.00	200.00		
Return Road Bond	0.00	500.00		
Newsletter	0.00	300.00		
Web Site	0.00	36.00		
Kitchen Improvement	1,249.00	2,446.43 **		
Total Expense	2,538.74	\$47,982.36		
	As of 10/10/07			
Starting Balance	\$ 12,226.98			
Income to date	16,650.74		Funds as of	10/10/2007
Total	28,877.72		Lake Maint.	\$17,959.20 (15-CD)
Expenses to date	2,538.74		LCIA: BAZAAR	4,270.56
Income/Expenses Total	\$ 26,338.98		Recreation	514.22
				\$ 22,743.98
FUNDS AS OF	10/09/07			
Checking	840.37		TAX ASSESSMENT	
Savings	25,498.61		\$125.00	
Total on Hand	26,338.98			

*Please note \$4,985.93 was allocated on June 24, 2007 Annual Meeting for roads upgrade and aggregate. Paid \$1100.00 for grading in July 2007. Balance to be applied to this year road budget. Balance of \$3885.93. ** All Past Due Taxes and Penalties allocated to Kitchen Improvement at Budget Meeting.

RECAP FROM SEPTEMBER 12, 2007 THRU OCTOBER 10, 2007

INCOME

9/15/2007	INTEREST ON CHECKING	.30
9/15/2007	INTEREST ON SAVINGS	4.90
9/16/2007	PAST DUE TAXES – BICKFORD	50.00
9/30/2007	SEPT BINGO DONATION	375.41
9/30/2007	SEPT KITCHEN DONATION	123.55
9/30/2007	SEPT SEALED TICKETS DONATION	162.36
10/3/2007	PAST DUE TAXES – FROM SHERIFF ZACKOWSKI	52.18
10/10/2007	TAXES	11,000.00
10/10/2007	BAZAAR FUND (RAFFLE)	803.00
10/10/2007	DONATION	130.00
TOTAL INCOME		\$12701.70

EXPENSES

9/11/07	TOWN OF ASHFORD RELEASE LIENS ON KITTREDGE & RECHEL	\$20.00
9/17/2007	AT&T	38.01
9/17/2007	CL&P	102.31
TOTAL EXPENSES		\$160.14

**Home-Based Business
Ordinance
Licensing Procedures
&
Forms**

Contents

Home-Based Business Ordinance

Application and Approval Process

Application and Approval Form

Application Pending Notice

Considerations

Miscellaneous

Attachments (not part of the proposed ordinance - for Board use only)

1. Authority to Enact this Ordinance
2. Article 1 of Restrictive Covenants
3. Commentary
4. Excerpts from Goodwin and Paul letter to Laura Koropatkin *et al* dated July 6, 2007
5. Excerpts from Town of Ashford Zoning Regulations dated April 2006

Home-Based Business Ordinance

Any business use of property located within the boundaries of the LCIA must:

1. Conform to the restrictive covenants that are part of the deed for the property on/in which the business will be located
2. Be licensed by the LCIA Board of Directors
3. Pay a non-refundable license application/license renewal fee of \$25.00
 - a. Licenses are valid for two (2) years from date of issue
 - b. Licenses may be revoked by the LCIA Board of Directors for just cause having given the business owner four weeks written prior notice of such revocation.
 - c. Licenses are issued to an individual for a specific location and are not transferrable to another individual or for another location.
4. Home-Based Business Licenses will be issued only to LCIA members.
5. Home-Based Business Licenses will be issued only for locations on which there is no tax, lien, penalty, interest or other liability payable to LCIA.
6. Home-Based Businesses in operation and licensed by the Town of Ashford prior to adoption date of this ordinance, are exempted from provisions 2, 3, and 4 of this ordinance (they are “grandfathered”).
7. The penalty for operating a business without licensed issued under this ordinance shall be \$100 for each year or portion of a year during which the business was operated without LCIA license.

Application and Approval Process

1. Obtain a copy of the Ordinance from (a) the LCIA Secretary or (b) the Lake Chaffee website: <http://www.LakeChaffee.org>
2. Fill out the application and public notice form.
3. Submit both documents and the non-refundable application fee of \$25.00 to the LCIA Secretary prior to the beginning of the next scheduled monthly LCIA Board of Directors' meeting (dates of upcoming meetings are listed on the Lake Chaffee website) and be present at the meeting to answer any questions that might be raised by board members.
 - a. The LCIA Secretary will certify your public notice form and return it to you prior to the end of this meeting.
4. You will post the public notice form in a manner permitting it to be read from the street adjacent to the proposed business location.
 - a. The public notice form should remain in place until the next regularly scheduled directors' meeting but for no fewer than a total two weeks.
5. The LCIA Board of Directors will vote on the application at the next regularly scheduled director's meeting, but not less than four weeks after application submission.
 - a. The Board may request that your application be revised.
 - b. Return of your application, certified by the LCIA Secretary, will constitute license from LCIA Board for your proposed business and will serve as proof to Ashford town officials of LCIA approval.
 - c. This LCIA approval does not relieve you of the requirement to obtain necessary licenses and permits (e.g. Home Occupancy Permit, Federal Identification Number, etc.) from other governing bodies.
 - d. Failure of the LCIA Board to vote upon your application within 63 days of initial submission, will imply approval.
6. Your application and the board's disposition of your application are a matter of public record and will be reported in the minutes published for the associated meeting(s).
7. LCIA Home Business Licenses can be revoked with four (4) weeks prior notice by the LCIA Board for one or more of the following reasons:
 - a. The use has clearly altered the residential character of the premises and neighborhood through the generation of traffic substantially in excess of that normally generated by a residential dwelling;
 - b. Changes in the lot or occupied building(s) have been made, altering the residential character of the premises or the neighborhood;
 - c. The nature of the occupation has changed from what was originally permitted,
 - d. Taxes, penalties, interest and/or LCIA-imposed liens remain unpaid

Application and Approval Form

Application Pending Notice

Considerations

The LCIA Board of Directors shall evaluate each such license application on its own merits based upon but not restricted to the following considerations:

1. Will the proposed business be in conflict with restrictive covenant provisions against "...manufacturing, agricultural or commercial business of any kind..."?
2. Does the proposed business, as a minimum, conform to Section 2.10.03(D) of the Ashford Zoning Regulations plus the following restrictions:
 - i. Business cannot employ any non-household member at the Lake Chaffee location.
 - ii. No physical sign or marker denoting the business shall be visible from the street
3. To what degree will the businesses presence be obvious to those familiar with the neighborhood (i.e. LCIA members) as well as the casual observer (i.e. how will it impact the current residential characteristics of the Lake Chaffee neighborhood?).
4. Impact of the proposed business upon vehicular traffic.
5. Impact of the proposed business upon air, water, noise, light, visual or other pollution.
6. Impact of the proposed business upon trespassing on LCIA property roads, beaches, boat launches, rights-of-way, the lake itself as well as upon the private property of its members.
7. Other than above, degree to which activity resulting from the presence of the proposed business could pose a nuisance.
8. Objections by (a) adjoining property owners and (b) other LCIA members to the presence of the business
9. Applications for proposed business will only be entertained when all outstanding LCIA taxes, penalties, interest and lien fees owed by the petitioning member have been paid in full. Taxes shall stay current for license to remain valid.

Miscellaneous

1. Hard copies of this ordinance, including the application and public notice forms, will be available from the LCIA Secretary
2. Digital copies of this ordinance, including the application and public notice forms, will be published on the Lake Chaffee website as a PDF document.

Authority

“...The executive board may enact by-laws and ordinances ... Any by-law or regulation adopted by the executive board may also be amended, modified or rescinded by a majority vote of the members of the association present...”¹

Article 1 of Restrictive Covenants

“Said premises shall not be used for any commercial, agricultural or manufacturing business of any kind.”²

Commentary

Deeds within the Lake Chaffee community are subject to a set of ten (10) restrictive covenants, the first of which prohibits use of the property for commercial, agricultural or manufacturing business of any kind – this is not the same as saying “businesses of any kind”.

It is the responsibility of the LCIA Board of Directors (referred to as the Board) to “...make reasonable assumptions in interpreting the restriction and to what circumstance it applies...”³ In other words, determine those businesses which are not “commercial, agricultural or manufacturing” in nature.

The Board interprets the **intent**⁴ of the restriction as a compact with those who purchased property at Lake Chaffee to retain the rural-residential characteristics prevalent at the time the Lake Chaffee community was formed.

To that end, this ordinance defines “...commercial, agricultural or manufacturing business of any kind...” as any enterprise which alters or has the potential to alter the rural-residential character of any part of the Lake Chaffee community.

This ordinance defines the process by which a business can obtain Board approval as an activity that is not prohibited by the deeded restrictive covenants.

¹ Section 6, “Special Act No. 86 – An Act Incorporating the Lake Chaffee Improvement Association, Incorporated”

² Deed for Lot 35, deeded to Helen K. Checkers on April 30, 1949 as recorded at Ashford Town Hall, Volume 43 Page 523. All other Lake Chaffee subdivision deeds in Volumes 43 and 44 contain the same restrictive covenant.

³ Goodwin and Paul letter to Laura Koropatkin *et al* dated July 6, 2007; page 3 paragraph 1

⁴ “Restrictive covenants are to be read as a whole to give effect to the ascertainable intent of the drafter, and strictly construed against grantors and the parties seeking to enforce the covenants. All doubts are to be resolved in favor of the free use of property. Courts should not infer restrictions that are not expressly provided for in the controlling documents.”

http://swagman.typepad.com/poa_governance/2006/02/michigan_case_1.html

Excerpts from Goodwin and Paul letter to Laura Koropatkin *et al* dated July 6, 2007

(key phrases relevant to this proposed ordinance, underscored below, are not underscored on the original correspondence)

Beginning with the 7th paragraph of the 2nd page and extending thru the 5th paragraph of the 3rd page:

1. The Board has the authority to enforce all of the deed restrictions as written in the individual deeds.
2. The Board does not have the authority to selectively enforce those restrictions or modify them by vote, variance or ordinance.
3. The restrictions may not be modified or rescinded by vote of the membership.

The remaining question is how the Board may interpret the restriction pertaining to commercial use of property. The cases tell us that the meaning of restrictive covenants must be determined by reviewing all its relevant provisions and reading it in light of the surrounding circumstances. It is an attempt to determine the intent of the parties by considering the language and circumstances existing at the time of writing *Wood v Amer.* 54 Conn. App. 601 (1999).

The Board must not selectively enforce the restrictions, but it may make reasonable assumptions in interpreting the restriction and to what circumstance it applies in determining which purported violation of the restrictions it will seek to enforce. For example, there may be a difference between a home office on the premises which supports a business which is conducted primarily offsite and a business which is conducted solely onsite.

The Board has the authority under the Special Act to enforce the restrictions. Likewise, any member of the Association has the right to bring an enforcement action to the Court to enforce the restrictions as well. The Board's interpretation of the restriction may ultimately be reviewed by the Court. Indeed the cases I have cited were all brought by one landowner against another.

Section 7 however, only provides recourse to the Court for enforcement. It is allowable for the Board to enact an ordinance which provides for other means of enforcement, such as a fine as you have done for many other situations, but there is presently no such ordinance in place addressing the violation of the commercial use restriction.

Lastly, in enforcing the restrictions, the Board should also be cognizant of the principal of laches and the applicable statute of limitations. Laches means an inexcusable delay which prejudices the one against whom enforcement is sought. *Farms & Mechanics Savings Bank v. Sullivan*, 216 Conn. 341 (1990). Was enforcement of the restrictions delayed so long that the property owner has somehow been prejudiced and suffered damages as a result of the delay? This is a question of fact for the Court.

Connecticut General Statutes Section 52-575a however, provides that an action to enforce a private restriction must be commenced within three years of the time the person seeking the enforcement had actual or constructive knowledge of the violation. This time limitation provides specific directions.

Excerpts from Town of Ashford Zoning Regulations dated April 2006

(key phrases relevant to this proposed ordinance, underscored below, are not underscored on the original document)

Beginning with Page 26 Section 2.10.03(D) and extending thru Page 27 Section 2.10.03(D)2:

2.10.3(D) Home Occupations

Home Occupations of limited impact to the neighborhood, shall be allowed following Site Plan Approval by the Zoning Enforcement Officer. These occupations shall be limited to:

1. The sale of farm or garden products;
2. The manufacture and sale of homemaking products;
3. The creation and sale of Arts and Crafts made on the premises;
4. Arts and letters;
5. Professional services such as an engineer, surveyor, forester, accountant, lawyer, music teacher and others who tend to interact with the public off site;
6. Business services such as a real estate agent or broker, insurance agent, photographer, and others who have limited dealings with the public on site;
7. Workshop and office activities clearly accessory to skilled trades such as plumber, carpenter, electrician, painter, appliance and small equipment repair etc. provided such activity does not become a separate manufacturing operation i.e. a carpenter may make cabinets for his own remodeling jobs, however, he cannot make cabinets to sell to others;
8. Beauty parlor or barber shop, provided the occupation meets all requirements of the local health authority, and;
9. Day care or preschools licensed by the state for no more than twelve (12) children.
10. Dog grooming; Also see 2.10.03A.

The Site Plan must include a detailed floor plan of the building(s) showing the areas within these buildings to be used by the home occupation and a detailed plan of the property showing how the home occupation will affect the exterior of the home (storage, parking etc.). The Site Plan must also list all equipment to be used in the occupation, state the number of people who will be employed on the premises and demonstrate that the home occupation meets all of the following requirements:

1. The use is clearly secondary to the residential or agricultural use of the property.
2. No traffic shall be generated by such home occupation in greater volume than would be normally expected in a residential neighborhood, and any need for parking generated by the conduct of the home occupation shall be provided off the street and not in the required yards of the lot.
3. There shall be no change in the residential character of the site or the neighborhood and there shall be no visible activity of the operation.
4. Any existing accessory buildings used for a home occupation shall observe all setback requirements of the district. Any new accessory building to be used by the home occupation shall not exceed 50 percent of the floor area of the principle residence building.
5. There shall be no external storage of equipment other than equipment normally observed in residential neighborhoods (i.e. play ground equipment, small lawn & garden tractors or passenger vehicles and trucks that can be registered with Combination plates). All such equipment shall be located so as to comply with all primary and secondary setback requirements.
6. No noise, odor, vibrations, glare, fumes, electrical interference or unsightly conditions shall be noticeable on the lot.
7. No more than two non-residents shall be employed on the premises.
8. There shall be no change in the outside appearance of the residence or accessory building or visible sign of operation of the home occupation except for a nameplate not to exceed three (3) square feet in area.

9. Such use shall not occupy more than 50 percent of the floor area of the principal residential building.

2.10.03(D)1 Special Permit Home Occupations

Any application for a Home Occupation which is not listed in 2.10.03(D) or which does not meet all of the requirements set forth in 2.10.03(D) may be approved as a Home Occupation by the Commission following a Special Permit/Public Hearing if the Applicant can demonstrate to the Commission that the proposal has adequate measures incorporated into the plan so that the home occupation will not adversely affect the residential nature of the neighborhood. The Commission may attach such conditions to the approval as they deem necessary to protect the residential character of the premises and the neighborhood. Uses that are not allowed as Home Occupations may be allowed under 4.09 as a Rural Industry.

2.10.03(D)2 Permit Duration

Permits are not transferable to another site. Home Occupation Permits shall be reviewed and renewed every two (2) years and are valid for as long as the permittee operates the Home Occupation in conformance with 2.10.03 (D)1 or any conditions specified by a Special Permit. Any permit may be revoked if, in the opinion of the Zoning Enforcement Officer and the Commission either/or:

- a. The use has clearly altered the residential character of the premises and neighborhood through the generation of traffic substantially in excess of that normally generated by a residential dwelling;
- b. Changes in the lot or occupied building(s) have been made, altering the residential character of the premises or the neighborhood;
- c. The nature of the occupation has changed from what was originally permitted, or;
- d. If any of the conditions listed above or imposed by a Special Permit have been violated. Any uncertainty regarding the issuance or renewal of a home occupation permit shall be resolved by the Commission.