

**Eureka Township
Public Hearing
August 3, 2006
Eureka Town Hall**

Agenda: Request for an expansion of Non Conforming Use by James and Margaret Lackore, on behalf of JML Fabrication LLC, 24185 Denmark Ave. , Farmington, MN (Property ID# 13-013000-10-02)

Planning Commission members present included Mike Greco, Nancy Sauber, Rich Stevens, Sharon Buckley and Clerk/ Treasurer Nanett Champlain to record the minutes.

Town Board Members present included Cheryl Monson, Gloria Belzer

Citizens present: Butch Hansen, Dean Monson, Andrea Krapu.

Applicants: James and Margaret Lackore

Planning Commission Chair, Mike Greco called the public hearing to order at 7:07 pm.

Chair Mike Greco explained the Planning Commissions role in the permit process and Planning commissions policies and procedures in running the public hearing.

Chair Mike Greco read the information submitted on the application and the Non Conforming Use Registration Form submitted by the applicant November 22, 2004.

The request falls under Chapter 1 of Zoning Ordinance No. 3, Sections 4 & 5 Non Conforming Use and Structures and Registration of Legal Non Conforming Uses. Chair Mike Greco read section 5 D. Registered Non Conforming Uses.

Before opening the floor for public comments, Chair Mike Greco asked the applicants if they would like to make a brief statement. The applicants waived the right to speak at this time.

Chair Mike Greco opened the floor for public comments.

Planning Commission Member Sharon Buckley asked for clarification of the application.

James and Margaret Lackore gave the following answers to her questions: The home shop is used to prepare, to go to off site location to build. Customers at shop only once or twice a month. Metal delivery once per month. Hours 7 am to 6 pm. He uses a personal vehicle for work purposes, one trip per day.

Planning Commission member Rich Stevens asked if there is going to be a significant change in the business.

Margaret Lackore- none.

Chair Mike Greco- The business started operation in March 2004, under what ordinance was the business a permitted use? Did you apply for a permit for the building?

James Lackore- the building was pre existing, The building was used by Thompson Oil. Margaret Lackore stated that the business start up date was March 2004, but manufacturing did not start until 2005.

Chair Mike Greco asked three times for comments from the public. Hearing no comments the public hearing was closed at 7:21 pm.

The Planning Commission discussed the request.

Nancy Sauber does not see it as a non conforming use. It is in an agricultural district, It did not exist prior to 1982, when the zoning changed to agricultural, so it cannot be grandfathered in. They did not have permission from the Town Board to start the business. The certificate from the State Of Minnesota does not reflect Eureka Township's zoning and land use. She finds it difficult to recommend an expansion, if you are not legal when you started, then you are not entitled to expansion. The Non Conforming Use Registration does not address legality. It allowed business that felt they were legal to register, so they would have the option to expand in the future. She would vote to deny the request, because she does not see the legality.

Rich Stevens- Thompson Oil was at this location prior to this business and had a higher impact business than the current business. There are no comments from the neighbors. He does not feel this is an expansion of the business, they are only requesting to expand the footage. If you sell the property, the business can remain or change as long as the impact is the same. There has been a business at this location since 1978,

Sharon Buckley- The Town Board decided it is a grandfathered use. The business exists. The Town Board is asking the Planning Commission to decide if they should be allowed to expand. To look at if they can expand or not we need to look at impacts to include, but limited to noise, hours of operation, number of trips, sounds, view , etc that would negatively impact adjoining neighbors. The proposal does not have any negative impacts on the community. The view will probably be positively impacted, by moving item stores outside inside. There is no substantial change in the use or reason to deny the request or any additional conditions set on the business.

Mike Greco- Lackore's are operating a business that does not cause a significant impact to the neighborhood. The trips are limited. The addition to the shed would allow to put items stored outside inside. Mike does not understand why they are not applying for a personal use pole shed. The application states "personal use". The applicants stated that the materials and welding will be in the existing building. Attaching a personal use building to an existing building used for a non conforming use may be a problem; a attorney opinion may need to be obtained.

Regardless to the outcome of this application the Town Board needs clarification of non conforming use from our attorney. **Mike read from meeting minutes to clarify the ordinance statement.**

Mr. Lackore feels that the Township misrepresented themselves by allowing businesses to register as non conforming uses, if they were not a non conforming use. They believed they are a grandfathered use.

Mike Greco stated by registering a business does not constitute a statement by the Town Board that the applicants use is legal.

Sharon Buckley- as the application is completed it is confusing. It says it is for personal use, but also has information relating to the business.

Nancy Sauber- Asking for an addition to the existing shop, if the intent is for personal use, then they should apply for a separate building.

Margaret Lackore- we use a lot of the equipment for business and personal use.

Sharon Buckley- the Town Board has determined that this is a business that is eligible to go through the public hearing process to determine if they can expand or not. The Planning Commission was charged to hold a public hearing to implement Section 5. Part D.

Nancy Sauber- she cannot with a conscience vote to approve this, when she doesn't believe they qualify as a non conforming use; that is the only way that they are eligible for an expansion.

Sharon Buckley stated for the record that the Planning Commission accepted the application at the July Planning Commission meeting, even though the application was not submitted according to the rules, one week prior to the meeting. The Planning Commission had a choice to look at it or wait till the August meeting, the Planning Commission chose to look at it at that meeting. They have already expedited the process by a month already.

A motion by Rich Stevens: To continue the meeting until first possible date, after the Town Board has a chance to contact the attorney and give a determination. Motion seconded by Sharon Buckley. Motion carried by unanimous vote.

A motion by Mike Greco: To recommend that the Town Board take the additional 60 days at their next meeting. Motion seconded by Nancy Sauber. Motion carried by unanimous vote.

The meeting recessed at 8:10 pm. Continuation of the meeting will be determined at a later date.