

December 17, 2004

Cindy Sirois
RR 5 Box 1330
Gardiner, ME 04345

Dear Ms. Sirois:

I am responding to the list of questions that were developed during your December 14, 2004 meeting with Phil Hart and Jean Dellert. Those questions, as recorded by Molly Gallant, are attached, and the numerical responses correspond to that attachment.

- 1) A land use permit does not expire. It remains valid as long as the permitted use continues and for one year thereafter. If Anthony Auto were to cease operations and remain closed for more than one year, a new permit would be needed at that time to restart the business.
- 2) The November 16, 2004 notice of violation to Thomas and Mary MacMaster listed seven areas the City alleged were out of compliance with local/state regulations.
- 3) If a roof design were changed in a minimal way it might require only a building permit issued by the code office. If a roof design were changed in a substantial way or it was part of an approval by the Planning Board for a new project, it probably would require Planning Board review. Essentially, it depends upon the circumstances.
- 4) The May 9, 1991 letter summarizing DEP conditions for approval relates strictly to the wetland area. The DEP-specified 25-foot buffer is associated only with the wetland. The City approval includes a fence within a 10-foot buffer. Both these items are noted in the November 16, 2004 notice of violation.
- 5) The November 16 notice of violation letter addresses the expansion of the business over time. If the owner chooses to apply to the Planning for a permit to authorize that expansion, it will be up to the Planning Board to determine what is permissible and issue the appropriate permit.

6) The November 16 letter gives the MacMasters two options for compliance:

Have an accepted Planning Board application for expanding the current use on file January 4, 2005 for consideration at the January 19, 2005 Planning Board meeting.

Correct the violations by January 24, 2005 deadline.

If the violations are not corrected on January 25, 2005 the City will send a letter stating our intent to prosecute in court with a ten-day grace period for compliance. The letter will also state that the City will recommend that any fines the court may impose be retroactive to the initial notice of violation letter (November 16, 2004).

7) If the City becomes aware of additional violations that are outside the scope the November 16 notice of violation, a new process would start for those additional violations. If additional violations that are within the scope of the presently identified violations came to light, those violations could be pursued within the current process.

8) This CD has been reviewed by the City Manager, Director of City Services, Police Chief, Code Officer and Director of Planning and Development.

9) If the fence is part of an approved plan and does not meet the standards in the approved plan, the owner must make it conform. Otherwise, fences and boundaries are the responsibility of the owner and are nothing the City has authority over.

In this particular circumstance a sketch showing fence placement was part of the approval and the constructed fence must conform to the approved sketch. However a survey was not required as part of the approval. If there are currently boundary disputes, the City has no authority, as this would be a civil matter between neighbors.

10) As I wrote to you on November 18, 2004 the Gardiner Police Department is not authorized or trained to enforce land use regulations. We have investigated every complaint or concern that you have offered and have taken enforcement or other action as appropriate.

11) No. The deadline is January 4, 2004.

12) The City Manager or a City Councilor.

13) The Police Department has consistently responded to your concerns with professionalism and a commitment to service. Over a recent six-week period the police responded 31 times to your concerns for an average of a response every 32 hours. Police Chief Jim Toman has personally responded twice. Seven of your complaints were forwarded to the District Attorney; all were returned by the District Attorney as insufficient for further investigation. Several warnings have been issued. Police Officers have even adjusted a spotlight at your request. You have involved two outside agencies, the Attorney General and the FBI, and after an initial contact both have declined to investigate the Gardiner Police Department due to insufficient grounds; our response to these agencies was to welcome their investigations. Our officers swear to a code of ethics upon appointment that includes a

commitment to fairness and impartiality. Our Standard Operating Procedures reinforce service and fairness as priorities.

I am sorry you feel the Police Department is not supporting you, but the record shows they are doing their jobs with enthusiasm and excellence.

14. Fences that are not part of a City-approved plan are civil matters between neighbors.

15. Lighting was not addressed in the original MacMaster Planning Board approval. The ordinance in effect in 1991 did not have specific lighting standards. Therefore the City has no enforcement authority in this circumstance.

I hope I have addressed your questions thoroughly. Please let me know how else I might assist you.

Sincerely,

Jeff Kobrock
City Manager

1. Has the conditional use permit expired?
2. Is the business out of compliance?
3. If you make a drawing and you change a roof design, do you have to go back to a planning board?
4. The DEP and City do not agree. If a fence is not in the right place, what happens?
5. Can four businesses be run from this site?
6. What is going to happen after January 24th?
7. If we add to the conditional letter, does the process have to start all over again?
8. Pat Gilbert has a CD with pictures on it, can it be distributed to the right people?
9. If the planning board asks for a fence to be put up, who is responsible for the where the boundaries are?
10. Why are the police not enforcing parking, noise, light violations of the ordinance?
11. Has Anthony Auto applied to be on the planning board agenda?
12. If someone wants to put restrictions on parking on Route 201, who do you ask?
13. What happens if you feel you are not getting support from the police department?
14. On fence boundaries, on the third post issue, if you feel there is a discrepancy, who takes care of that?
15. Made a complaint to the police twice on light issue, with no satisfaction.