

## **Minutes of An Amherstburg Municipal Council Special Meeting Held On Tuesday, March 30, 2010 At 5:30 PM In Council Chambers**

### **PRESENT:**

Mayor Wayne Hurst  
Deputy Mayor Robert Bailey  
Councillor Rick Fryer  
Councillor Robert (Bob) Pillon  
Councillor John Sutton  
Councillor William (Bill) Wark  
Councillor Rosa White

### **ALSO PRESENT:**

Pamela Malott, Chief Administrative Officer  
Brenda Percy, Manager of Council & Leg. Services/Clerk  
Jackie Hubbs, Manager of Public Services

### **CALL TO ORDER**

The Mayor called the meeting to Order.

### **DISCLOSURE OF PECUNIARY INTEREST**

There were no disclosures of pecuniary interest.

### **REPORTS OF MUNICIPAL OFFICERS**

#### **Report # 1**

A report by Jackie Hubbs, Manager of Development Services, dated March 24, 2010 regarding the planning report for Statutory Public Meeting, March 30, 2010. Jackie Hubbs, Manager, Development Services provided an overview of the report before Council. Site specific pictures were provided and are attached as an Addendum to these minutes.

Mrs. Robson, spouse of applicant addressed Council and advised that the business is a small family owned business. She explained that her neighbours are in attendance and are supportive of the application. There have been no problems with respect to noise, fumes or parking of cars. There are possibly two or three cars at the shop at one time only.

**COMMENTS FROM THE PUBLIC**

Members of the Public were invited to speak on the Proposed ZBA Amendment – Mark Robson Auto Body Shop – 2710 County Road 20.

1. Mr. Herman Bolger, 864 Alma Street, Amherstburg addressed Council and advised that he is the owner of Offshore Marine. Mr. Bolger reported that he was the person who initiated a complaint under Property Standards with regard to the Robson business. Mr. Bolger questioned why the business had been operating without a municipal business license and noted that a requirement for a business license includes the need for zoning approval. Mr. Bolger advised that he is not in support of the application.
2. Wendy Sprague-Bolger, 864 Alma Street, Amherstburg addressed Council. She noted that her spouse is the owner of Offshore Marine and that she is not in support of the application, a copy of Mrs. Sprague-Bolger's speaking notes are attached and form an Addendum to these minutes.
3. Steve Maluske, 242 St. Arnaud Street addressed Council and advised that he is the owner of the Best Little Body Shop and that he was in disagreement with the business being classified as a 'home occupation'.
4. Rochelle Beckett, 22 St. Theresa addressed Council and expressed support of the application.

Councillor Pillon asked that the Town solicitor provide a legal opinion as to "home occupation" and that the matter not return to Council until such time as the Town solicitor has provided a legal opinion.

Councillor White moved, Councillor Sutton seconded:

**That Council receive the comments made at this public meeting in connection with the Proposed ZBA Amendment – Mark Robson Auto Body Shop – 2710 County Road 20;**

**That the report by Jackie Hubbs, Manager of Development Services, dated March 24, 2010 regarding the planning report for Statutory Public Meeting, March 30, 2010 be received;**

**And further that Council direct Administration to prepare the necessary zoning by-law amendment to be brought forward to Council at the next available public Council Meeting.**

The Mayor put the Motion

**Motion Carried**

**BY-LAWS**

**Confirmatory By-Law**

Deputy Mayor Bailey moved, Councillor Sutton seconded:

**That By-Law 2010 - 39 being a By-Law to confirm all resolutions of the Municipal Council Meeting held on March 30, 2010 be taken as having been read a first, second and third time, be finally passed and the Mayor and the Clerk be authorized to sign same and affix the Corporate Seal thereto.**

The Mayor put the Motion

**Motion Carried**

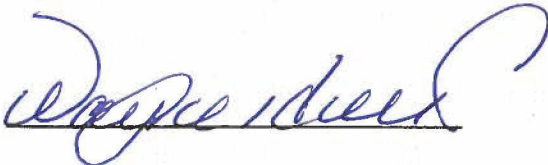
**ADJOURNMENT**

Councillor White moved, Councillor Sutton seconded:

**That we rise and adjourn at 6:25 p.m.**

The Mayor put the Motion.

**Motion Carried**



**MAYOR - WAYNE HURST**



**CLERK - BRENDA M. PERCY**

# **Zoning By-law Z-4-09**

**- 2701 County Road 20**

**- proposed home occupation -  
Automobile Body Repair Shop**

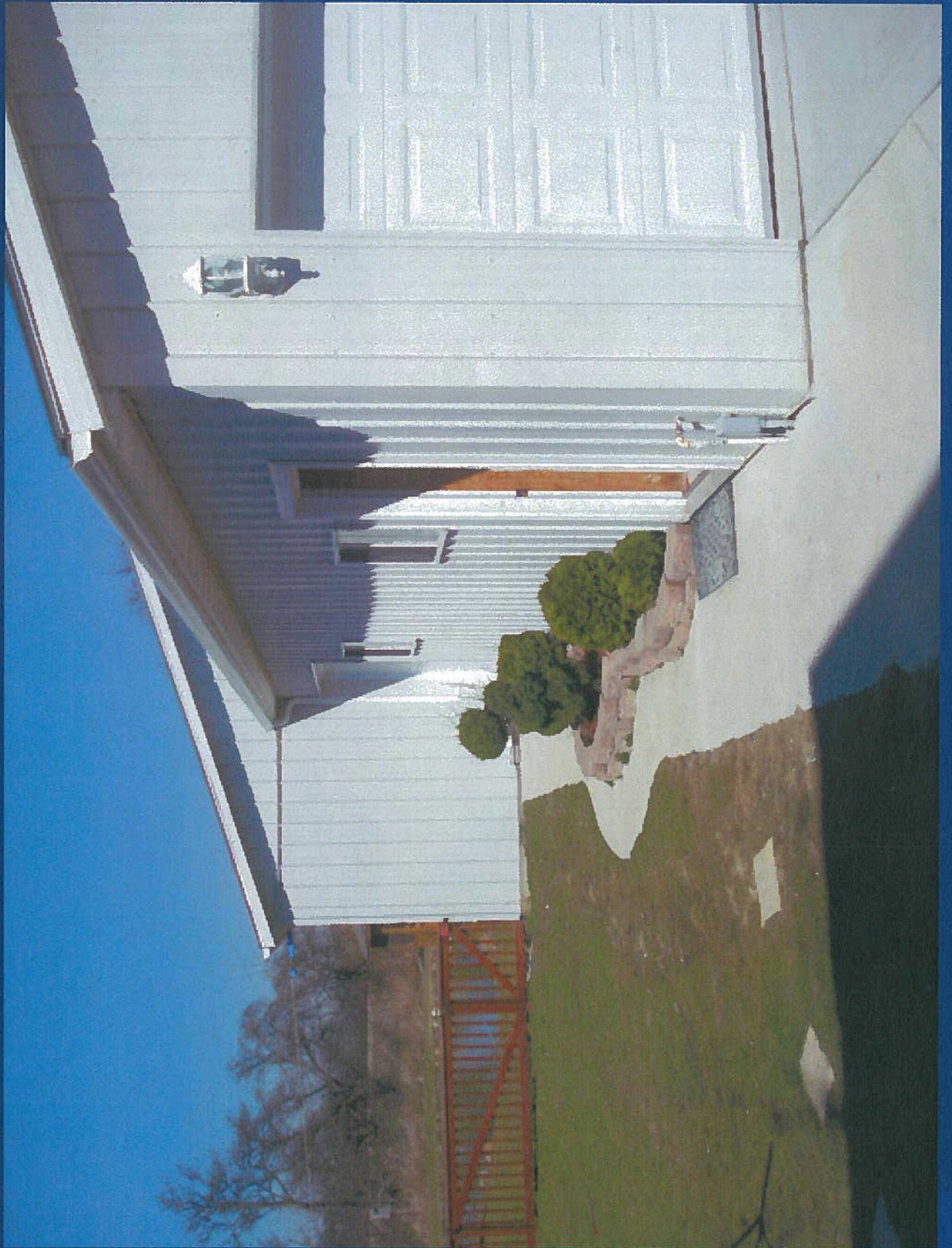




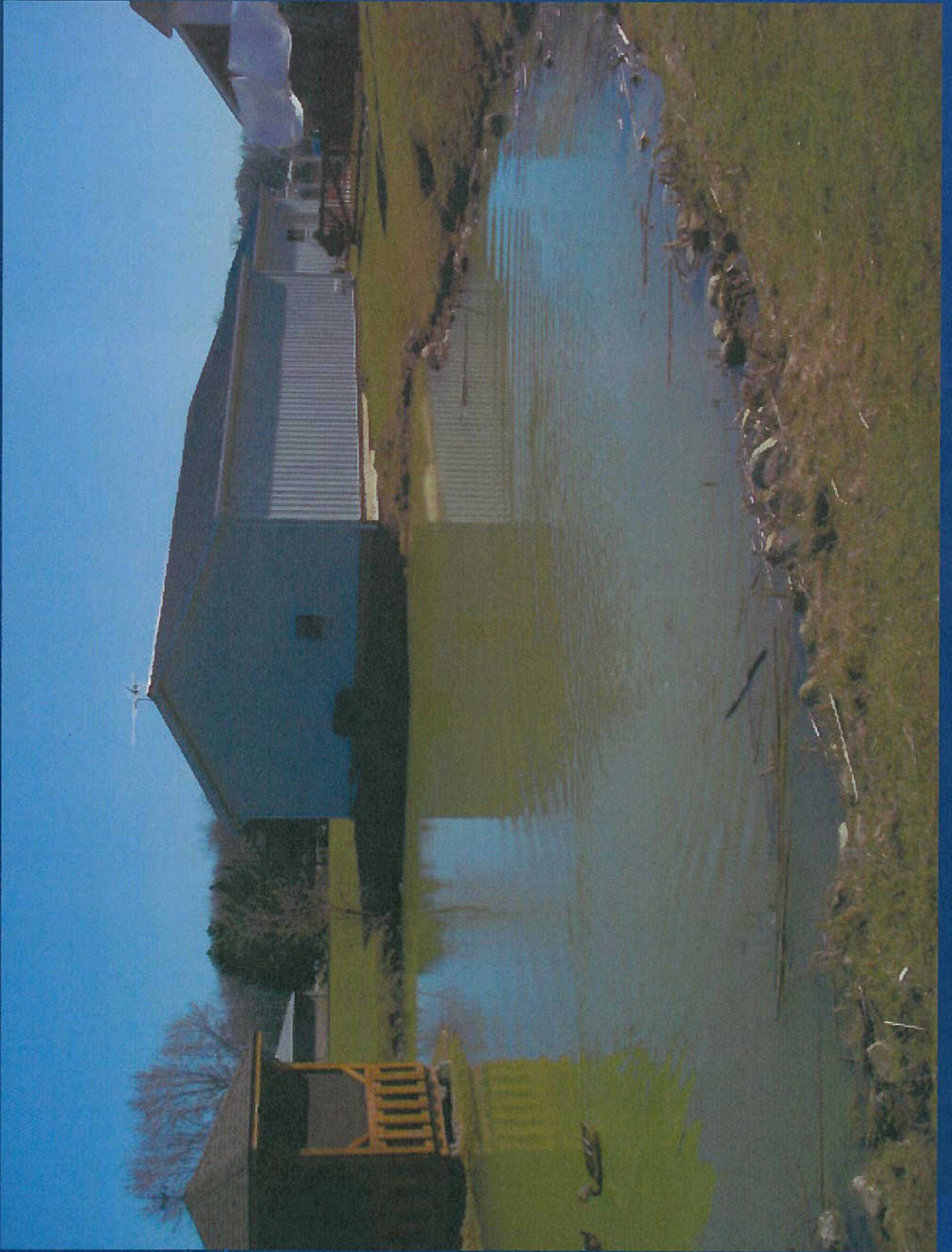




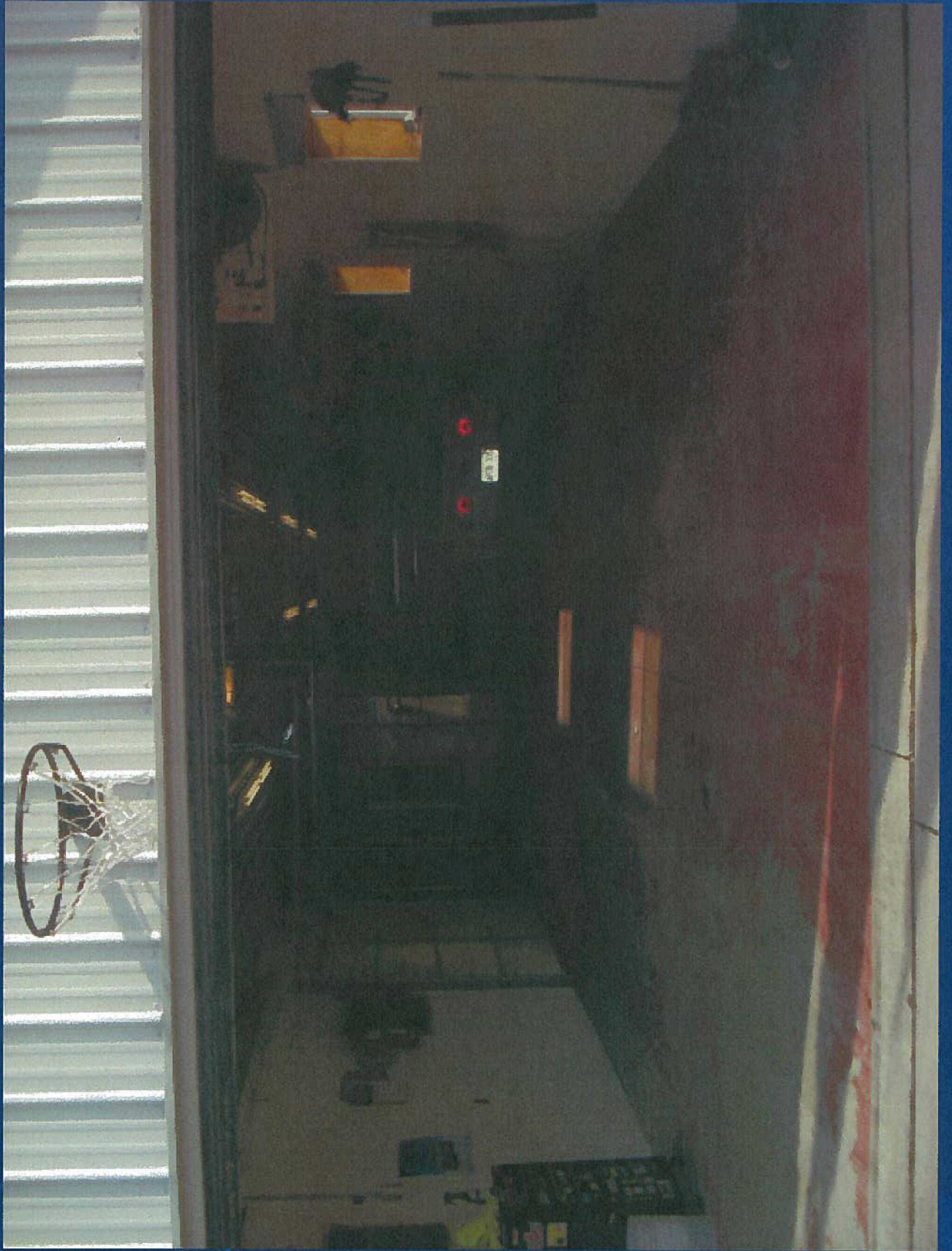










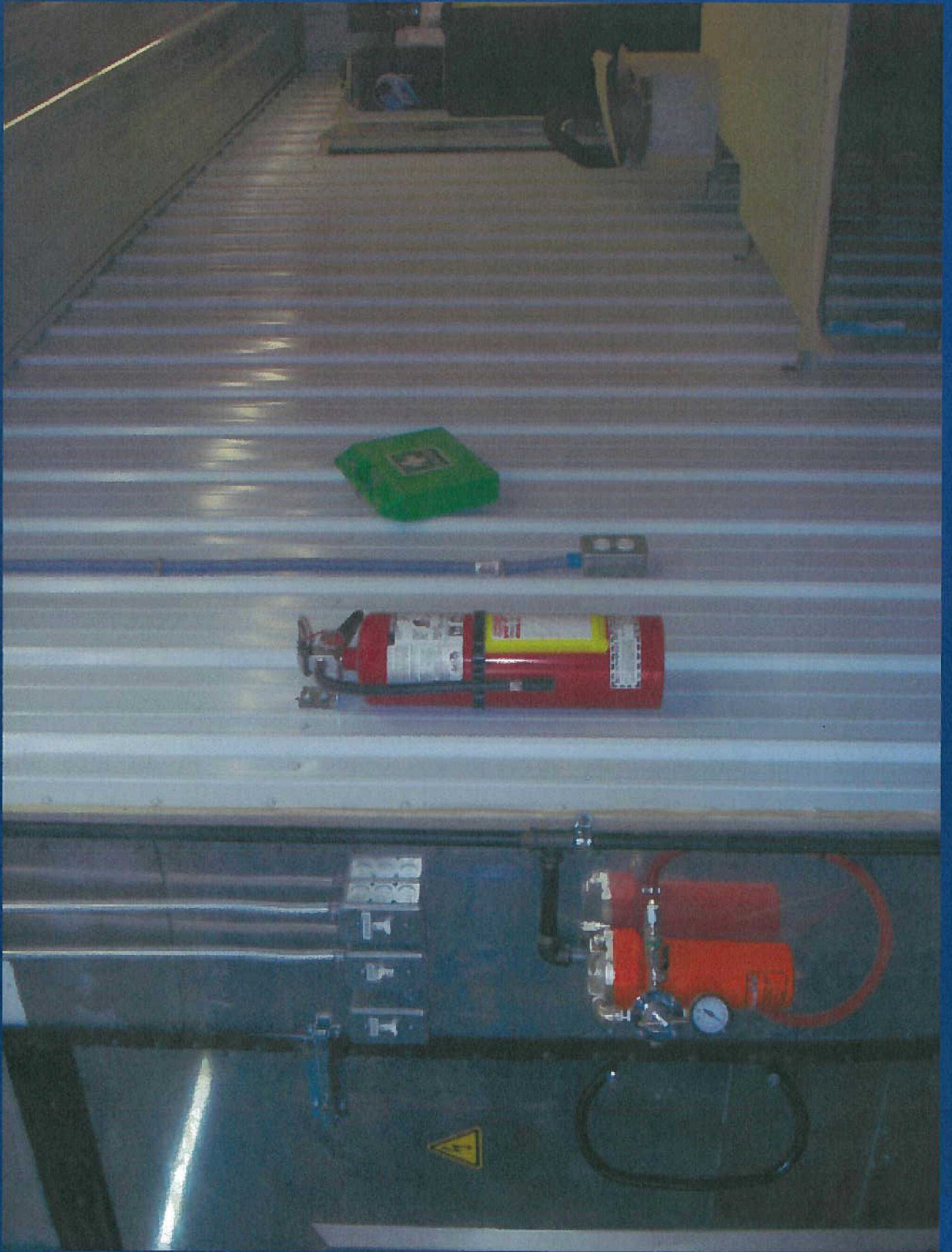












Your Worship, and Members of Council my name is Wendy Sprague.

I have reviewed Mrs. Hubbs report and also reviewed online the Town's Official Plan along with the Provincial Policies Statement. I also went to the Town Offices to review sections of the Town's Zoning By-law.

I am here to make your Worship and Members of Council aware that I do not agree that this application for a Zoning By-law Amendment is a permitted use in the Town's Official Plan – I am referring to Section 3.2.2(18)(g) which reads:

“The development of any new, or expansion of a legally existing commercial or industrial use which are not farm or home occupations, as defined in the Zoning By-law, are not permitted in the Agricultural designation and shall require an amendment to this Plan. Prior to the Plan being amended, Council must be satisfied that the proposed development cannot locate in an area already appropriately designated, is consistent with the Provincial Policies Statement and that the proposed location is in compliance with the minimum distance separation (MDS) formula contained in the Town's Zoning By-law, that any proposed expansion of an existing use shall be limited to the boundaries of the existing site and no conveyance of agricultural land shall be permitted to accommodate the expansion and that the application satisfies the criteria included in Section 8.4 of the Plan. I personally believe that this is a new industrial use and therefore it would require an amendment to your Official Plan.

Also note that commercial and industrial uses are subject to Site Plan Control. In looking at the “Draft By-law” particularly Section 4 under Purpose “to ensure all provisions of the Planning Act are satisfied – is it my understanding that this applicant will be subject to a Site Plan Control Agreement?”

#### SUMMARY

In my opinion, I feel that the “Draft Zoning By-law” is not consistent with the Provincial Policy Statement and does not conform with the Town’s Official Plan and lastly does not comply with the intent of the “Rural Home Occupation” of the Town’s Zoning By-law.

Also based on the fact that this is a restricted use, as set out in the Town’s Zoning By-law, it does not appear to have been the Town’s intent to encourage this type of use as a Home Occupation.

I’m not quite finished. There are a couple of other concerns I have: The ad for this Public Meeting was published in the March 10<sup>th</sup> issue of the River Town times stating that additional information relating to this proposed Zoning by-law Amendment is available for inspection at the Town Offices. I went to the offices on March 24<sup>th</sup>, - not ready, March 25<sup>th</sup> – still not ready, March 26<sup>th</sup> at 2:00 p.m. I was told if I waited for a bit that it would be ready – finally at 2:30p.m. I was given the information. I do not think this is acceptable.

My final comment is regarding the “Financial Implications” of the report – even though municipal taxes are not a planning issue it is stated that if this by-law

Now referring to the Town's Zoning By-law under definitions "Home Occupation, Agriculture" means the use of part of a main or accessory building for an occupation for gain or support which serves agriculture uses.

Also referencing the Zoning By-law, General Provisions Section 3(27) USES RESTRICTED IN ALL ZONES – specifically (xvi and xvii) which read: (xvi) use any land or building, except those lands within the Commercial Highway (CH) Zone or the Heavy Industrial (HI) Zone for the repair or servicing of any motor vehicle unless such motor vehicle is owned by and registered in the name of an owner or occupant of such land or building: (xvii) – carry out any but minor repairs and servicing such as the changing of tires or oil, outside of a garage or other suitable building, on any motor vehicle within the Corporation, except on lands lawfully occupied and used as a motor vehicle service station, body shop, commercial garage or radiator shop. To me this section prohibits any vehicle service station, body shops or commercial garages. Therefore I do not agree that this is a Rural Home Occupation.

UPON REVIEWING THE PROVINCIAL POLICIES STATEMENT IT WOULD APPEAR THAT THIS PROPERTY FALLS UNDER A PRIME AGRICULTURE AREA. IN MY OPINION THIS IS NOT AN AGRICULTURE USE.

Also upon reviewing the Town's Official Plan, online, the only designation which would allow this as a permitted land use are commercial and industrial designations.

The Town's Zoning By-law permits this use in commercial and industrial zones.

passes MPAC will be notified and an amended mill rate will be applied to the use of the accessory building only. It has be thru my knowledge that the majority of home occupations in the Town do not have a separate mill rate to calculate commercial taxes and that the legally zoned body shops in the Town of Amherstburg pay full commercial rates on both their land and buildings.


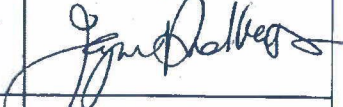

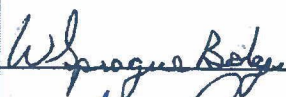


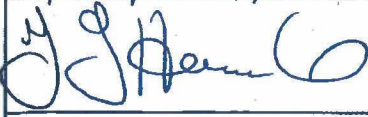
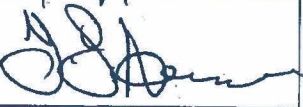

Your Worship and members of Council please take your time and review the sections of the Official Plan, Zoning <sup>BY-LAW</sup> and Provincial Policies that I have referenced to before making any decision.

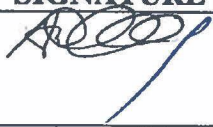



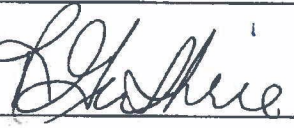



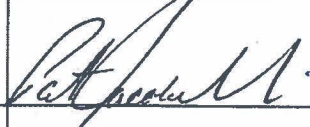


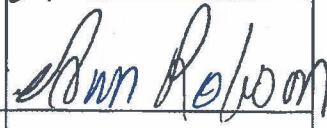
Thank you for your time.

**PUBLIC MEETING ATTENDANCE RECORD**

**Date: Tuesday, March 30, 2010 at 5:30 PM**

**ZBA- Robson Autobody Shop**

NAME (please print clearly)	ADDRESS and PHONE # (please print clearly)	SIGNATURE
MOORE GORD	80 WHELAN DR 519-730-0762	
Jayne Andrews	70 Woodbridge 519-736-2291	
Rochelle Beckett	22 Ste Therese R-5 Harrow 730-1224	Rochelle Beckett
PAT BECKETT	22 ST THERESE RR 5 HARROW 730-1224	
WENDY SPRAGUE-BOGER	24 LAIRD AVE S ABURG NGV 1K5 736-3842	
Heeman Boger	864 ALMA ST A'BURG	
SABUR MOLLUSKI	<del>270</del> ST DENNIS ST ABURG	
ANDY MATTE	276 RICHMOND ST. ABURG	Andy Matt
Annelie Treabout	640 Concession 210	Annelie Treabout
Conie Mathieson	2761 City Rd 20 RR#2 A'burg	C Mathieson
Neil Mathieson	2761 City Rd 20 RR#2 A'burg	N Mathieson
	55 MALDEN HILL	
Dorothy Hammill	55 Malden Hill Dr A'burg	

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Date: <u>Tuesday, March 30, 2010 at 5:30 PM</u>		
ZBA- Robson Autobody Shop		
NAME (please print clearly)	ADDRESS and PHONE # (please print clearly)	SIGNATURE
Tony Deby	5950 Tecumseh Rd. E, Windsor 253-2000	
STEVE ROBSON	1331 2nd Con. N 519-736-8766	
GREG SESTO	315 STONE RIDGE AVE 7367840	
Rocnela Sesto	315 Stone Ridge Ave	
RENEE GUTHRIE	280 Mclellan 736-3390	
Sean GUTHRIE	280 Mclellan 7363390	
DENISE THOMAS	2958 County rd 20 7389717	
STEVE THOMAS	2958 COUNTY RD 20 7389717	
PAT Jacobelli	1579 Front <sup>2d</sup> S 519-736-2278	
Julie Ellis	139 Tilford Ln 5197364380	
Leanne Robson	133 Elmstead lane 519-817-3674	
Ann Robson	155 Lakewood Drive 519-736-7240	
Roxanne Guthrie	476 Thorn Ridge Cres	