



# Zoning Board of Appeals

Minutes of Wednesday, May 11, 2016 – 7:00 PM

**Board of Appeals members present:** Gerry Mann, Charles Dudek, & Osa Flory

**Absent:** Marcianna Caplis

**Applicants Present:** Robert Buchele, Robert & Jessica Lockwood

**Public Present:** Bonnie & Jerry Roberge, Charles Miller, Donna Gulow, Mary Ellen & Tim McQueston, Jean Clark, Lisa Moran, Carl Loomis, Wilbur Loomis, Danna & Bill Lockwood, Ronald Grove, Melodie Tewhill, Nancy Mullins Grove, Kathy McKeown, Howard & Carole Cohen, James & Pat Wilson, Mark & Tina Oliver, Melissa Wilson, Cynthia & James DiDonato, Larry & Deena Lashway, Gerald Lashway, Rebecca Brooks, Jennifer Monette, Kate Moriarty, Alan Greene, Carol Demerski, Chris Ehorn, Greg Henson, Daryl Springman and Dan Banister.

Chairman Dudek opened the meeting.

Motion made (OF) and seconded (GM) to accept the Minutes of 3/31/16 as written. Motion so voted.

Motion made (GM) and seconded (OF) to accept the Minutes of 4/26/16 as written. Motion so voted.

(CD) noted to the public present that the meeting was being recorded for the accuracy of minutes. He also asked if anyone in the audience was recording the hearing to please let the Board know. No one spoke.

## **BUCHELE & WENNER PUBLIC HEARING-4 SOUTH STREET-7:00 PM**

This public hearing was called after an application was received by Bob Buchele and Lisa Wenner of 4 South Street for a Special Permit to construct an accessory apartment as required by Section 9.1 of the Williamsburg Zoning Bylaw at 4 South Street, identified as Assessors Map J, Lot 143.0.

(CD) opened the public hearing at 7:00 pm. He asked Mr. Buchele to speak about the application and what he planned to do at 4 South Street. (RB) stated he has a 4-5 bedroom house. When they bought the house there was an apartment in the house. They turned the apartment into a large bedroom 37 years ago. Their children are grown and they have retired and would like to generate income with an apartment. The plan is to put the apartment in the space it was before on the second floor.

(CD) noted that the plans showed no kitchen. (RB) stated he plans to put in a kitchenette. He had put in the application a little premature and needs to show the Building Inspector plans for the apartment. He plans to submit them this upcoming week or so.

(GM) stated that the hearing will need to be continued until the plans are submitted and approved by the Building Inspector. Motion made (OF) and seconded (GM) to continue the Public Hearing to Monday, May 23, 2016 at 7:00 pm. Motion so voted.

The Board discussed a generalized response for emails received regarding complaints.

## **Lockwood Public Hearing-45 Mountain Street-7:30 PM**

(CD) opened the Public Hearing at 7:32 pm and was called after an application for a Special Permit was submitted by Robert Lockwood of 45 Mountain Street to operate a trucking business and associated activities as required by Section 3.2 of the Williamsburg Zoning Bylaw at 45 Mountain Street, identified as Assessors Map H, Lot 13.0.

(CD) again noted to the Public present that the meeting was being recorded for the accuracy of Minutes and requested that if any public present were recording the hearing to let the Board know. No one spoke.

(CD) asked (RL) to provide a summary of the activities at 45 Mountain Street. (RL) asked to exercise his right to ask for a continuance at any time, if needed, as his lawyer, Tom Miranda, was unable to attend. The Board asked (RL) if he wanted a continuance and he said not at this time. (GM) noted once the hearing was started, the Board could exercise their right to continue the hearing.

(RL) spoke to the Board. He has been operating a trucking company since 2003. He has five (5) large trailer trucks and anything over three (3) requires a permit. His hours of operation are normal for a trucking business who transports goods for others. His hours of operation are usually from 4:30 am until 5:00 pm or 6:00 pm. He does not store materials for sale on the site, so there are not trucks entering and exiting all day. His trucks go out in the morning and return in the evening. His days of operation are usually Monday through Friday but in the summer he may work on Saturdays from morning until early afternoon. He does fuel the trucks on site. He has an existing barn on the property where he does light maintenance on the trucks. All heavy maintenance is done offsite at a repair garage. He does not do any repairs for any other trucks other than his own. His business is hauling construction materials, logs, bark mulch, granite and stone. He has over 100 clients in the area. His trucks are 80000 lbs.

(GM) asked (RL) how many acres he owns at 45 Mountain Street. (RL) stated 14.5 acres and his house and property is in the rural zone. (CD) asked if only the existing barn and no other building is used in the business. (RL) stated yes.

(OF) asked how far off the road are the trucks stored. (RL) had provided a map with his application but there were no distances marked. (RL) stated the trucks are stored approximately 950 feet from the street.

(CD) asked for comments from the Public.

Tim McQueston, of 4 North Farms Road spoke first. He has lived in the area for 50 years. He noted over the years there have been numerous businesses in this area. There have been plumbing businesses, trucking businesses, fuel oil business, along with the Town's transfer station. This type of business is not new to the street. He is in support of the business.

(CD) asked (RL) about his fuel storage. He has a tank for 500 gallons of fuel. There is no signage on the property, nor any plans to put up any signs. (RL) also noted that his trucks are encouraged to travel slowly in the neighborhood and to try and not use their engine brakes on the street.

Bill Turner, who is the highway superintendent, spoke about the traffic. He noted that Mr. Lockwood's trucks travel the slowest on the street. (BT) is out there doing repairs and street upkeep. He noted there is a lot of truck traffic on the street as it is a main route for trucks and traffic to travel to Route 91 in Whately or to go to Amherst or Greenfield. He also stated that Mr. Lockwood brings the salt to the Town shed. He is in support of the special permit.

Bonnie Roberge of 10 Laurel Road spoke in favor of the business next. She has lived on Laurel Road since 2003. She noted you cannot see the trucks when you go by the property. She also noted that his trucks are always going the speed limit. She also noted the increase of trucks on the street but most are not Mr. Lockwood's trucks.

Gerry Lashway, 18 Eastern Avenue spoke next. He has a lumber business in town. He stated that trucks travel that street and they all cannot be blamed on Mr. Lockwood.

Bill Lockwood, who is (RL)'s father. He has lived here all his life and (RL) is a 4<sup>th</sup> generation family in the town. He noted his son is trying to make a living for his family and is trying to fit in the neighborhood and be courteous to the neighbors. He is in support.

Other residents spoke in favor of Mr. Lockwood and his business. They noted the business is compatible with other uses in the zone. Many noted the increase in traffic, especially large trucks on the street. There was a large increase while Route 143 was being done over last summer.

The Board answered questions regarding the process of the special permit and that a special permit is issued for uses compatible with the area and by right and are not more detrimental uses. They can consider, noise, lighting and traffic.

Rebecca Brooks, from Mountain Street spoke in opposition to the business. She wants to know what associated activities to the business there would be and where the fuel is stored and whether it is stored properly. She noted there are wetlands in that area.

(CD) noted any wetlands issues should go before the Conservation Commission. Those issues are not in their enforceable by the Zoning Board of Appeals and not in the special permit before them.

Alan Greene from 5B Dewey Circle lives across from 45 Mountain Street. He noted that he appreciates generational family businesses but he is in opposition to this business being there. The noise wakes his wife and himself in the early morning hours. The driveway is directly across from his home and the lights shine in the room. He also spoke of the trucks idling for 2 ½ hours as they are diesel engines. The mufflers are loud and should not be allowed in a residential zone. He asked for conditions if the permit is issued. He does not think they should start before 7 am.

Kathy McKeown, who lives at 86 Mountain Street, spoke in opposition to the special permit. She noted the definition of the trucking business as parking of the vehicles, not the operation of the vehicles. She noted that there is too much noise from the parking and operation of vehicles. She noted that this is a commercial venture. (CD) stated it is a rural zone. She complained about the safety of pedestrians, walkers and bicyclists.

(GM) asked Mr. Lockwood how often his trucks leave before 8 am or return after 5 pm. (RL) stated they always leave before 8 am. His customers dictate what time he leaves. Sometimes he leaves at 4:30 am. Some of his trucks stay out all week and only return at the end of the week. Sometimes he needs to deliver in Boston at 7 am so he cannot leave his property at 7 am.

Wilbur Loomis, from 32 Mountain Street, operated a trucking business for many years and had his operations on Mountain Street. He reiterated that the customers tell you what time they need a load delivered. Trucking business hours are dictated by the customers.

James Wilson, from 49 Mountain Street, spoke about the associated activities. Brenda Lessard, Town Clerk, responded to Mr. Wilson. When the application came in, she suggested putting in “associated activities” as they talked of light repairs, washing the trucks, etc. Mr. Wilson asked about expansion. (CD) stated if a special permit is issued, there would more than likely be conditions and any future expansion beyond those conditions would require another special permit. (JW) also stated that last summer there was an increase in noise that sounded like rock crushing or pounding and it persisted for weeks on end. He stated that he has always been friendly with the Lockwoods but after last summer, the relationship has been strained. Pat Wilson, from 49 Mountain Street re-enforced the conditions last summer and how offensive the noise was. They wanted to know what that noise was from and if it would happen again. (RL) responded to the Wilsons that last summer he installed an in ground pool which during the installation, they reached a large amount of rock. They had to jackhammer the rock to install the pool. That activity has ceased.

Bonnie Roberge from 10 Laurel Road noted that trucks go in and out of the Town transfer station and empty dumpsters at the Burgy Bullets snowmobile club. The trucks go in at 2 am and later sometimes.

(OF) asked about storage of materials. (RL) stated there is no sort of material stored there. They park the trucks.

Chuck Miller who resides at 2 Dewey Circle spoke in opposition. He does not dispute that Mr. Lockwood works hard. This issue with the business started last summer when there was material being trucked in to the property and there was a great deal of noise. There was a processor on site processing the material and it was loud. He also spoke about an oil separator for the barn and area as it crosses wetlands. He noted trucks idling for hours on end. The Lockwood's driveway is at the bottom of the hill so the noise is intensified. He sent a letter to Mr. Lockwood last summer about keeping the trucks and activity quieter and within a reasonable decibel. The noise has not decreased and he sent another letter in March of this year.

Kate Moriarty from 37 Mountain Street had a question about the fuel storage and keeping the environment safe. She also asked about the possibility of more than five (5) trucks. (CD) stated that the permit stated there are five (5) trucks before them and any future expansion would require another special permit. (KM) stated she is neither in favor or opposed.

Gerry Lashway noted to the audience that the Town has no noise ordinance.

Kathy McKeown, spoke again. She noted this is a rural zone. A rural zone should be quiet. Commercial activity does not belong in a rural zone.

Alan Greene noted the state ordinance regarding noise. It is under DEP Noise Control Regulations 310 CMR 7.10. He submitted a copy for the record.

(BT) asked how the neighbors know it is Mr. Lockwood's trucks that are waking them up. It is a heavily travelled road.

(JW) stated noise is an issue for the neighbors. This was reinforced by Greg Henson from 64 Mountain Street stating the noise is a big issue for the neighborhood.

Ronald Grove from 54 B Mountain Street is new to Town and has not moved in yet but is working on the home. He has heard trucks idling at 45 Mountain Street and them leaving early in the morning. He stated the State has an anti-idling law that vehicles cannot idle more than five (5) minutes.

Chuck Miller stated this is a quality of life issue and a property value issue for the neighbors.

Jim DiDonato stated that the activities are on their own property. He does not want the Lockwoods ability to make a living be impaired.

(GM) asked about idling vehicles. (RL) stated his trucks have timers on them set for 15 minutes. After that time the truck shuts off.

(CD) thinks a site visit is warranted. (GM) made a motion and it was seconded by (CD) to continue the hearing until 5/23/16 at 7:30 pm. A site visit will be on Friday, May 13<sup>th</sup> at 10 am.

Motion made (GM) and seconded (OF) to adjourn the hearing at 8:30 pm.

Respectfully submitted,

Brenda Lessard, Secretary