

## Zoning Board of Appeals – Public Hearing

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*Tuesday January 19<sup>th</sup>, 2021 7:00 p.m.*

**Members Present:** Chair David Lavenburg, Steve Bennett, Jerry Plumb, Mike Michon, Jim Tourtelotte, Ellen Freyman, Marissa Komack, Suzanne White.

**Members Absent:** Jane Mantolesky

**Applicants Present:** Jeffrey and Jessica Guerra, Mary Cahillane & Dianne LaBonte, Jason Tsitso & Zach Schwartz, Steve Walker, Cynthia Calvanese, Greg Lyon, Jodi Manley, Thomas McDonald, Jeff Meehan, Scott McKenzie, Joel Vengco.

The **ZBA Hearing** was called to order at 7:04 p.m. by Chair David Lavenburg, who reminded the public of the reasons for virtual meeting settings as well as the protocols to follow during this hearing.

### **Petition #2020-17 – Special Permit (Overnight Vehicle Parking) for 144 Lawnwood Ave., Jeffrey Guerra.**

In February 2020 the board granted a special permit to Mr. Benito Rocca at 329 Frank Smith Road for overnight parking of a commercial vehicle in the property owner's driveway; the petition was filed with the board after a Cease & Desist letter had been sent to the property owner by Zoning Bylaw Enforcement Officer Mr. Paul Healy. In Mr. Guerra's case, the petition is being filed without any prior communications with Mr. Healy, deeming this petition procedurally flawed. Consequently, Mr. Lavenburg recommended that the applicant withdraw his application and engage in communications with Mr. Healy, after which, if applicable, Mr. Guerra can file a new petition for the board to review the case. Members of the board agree with this analysis and the applicant requested permission to withdraw the application without prejudice. The matter was not taken up on its merits, therefore the hearing was not opened for public comment.

Chair Lavenburg made a motion, and was seconded by Ellen Freyman, to allow Mr. Guerra to withdraw his application. Roll call vote: Mr. Lavenburg: yes; Ms. Freyman: yes; Mr. Bennet: yes; Ms. Komack: yes; Mr. Tourtelotte: yes. All in favor, motion passed 5-0

### **Petition #2020-9 – Parking Finding related to Special Permit (Variance, Manufacturing) for 807 Maple Rd., Jason Tsitso & Zach Schwartz:**

A special permit for manufacturing (the act of brewing) and retail sales was granted by the board at its November 10, 2020 hearing with the condition that the parking findings be reviewed soon after, hence the petition herein.

The commercial complex is composed of five commercial space, including the space for the future brewery, and provides a total of 57 parking spaces, which is less than the required 70 parking spaces per formulas to be found in the bylaws; that said, the tenants offer a myriad of uses and have different business hours, which justifies the variance. In the case of the commercial space to be used by the brewery, the space was previously used as restaurant, therefore similar traffic expectations.

#### **Comments from the public in favor of or against the petition:**

- Thomas McDonald (123 Lawnwood Ave) is pleased with the applicant's future plans.

Steve Bennett made a motion, and was seconded by Mr. Lavenburg, that the board accept the findings of fact as described previously. Roll call vote - Mr. Lavenburg: yes; Ms. Freyman: yes; Ms. Komack: yes; Mr. Plumb: yes; Mr. Bennett: yes. All in favor, motion passed 5-0.

Mr. Bennett made a second motion, and was seconded by Mr. Lavenburg, that the board exercise its discretion in granting a variance for the number of spaces required by the bylaw at this commercial complex from 70 to 57, with the justification being the variation in operating hours for each of the five tenants as stated above. Roll call vote - Mr. Lavenburg: yes; Ms. Freyman: yes; Ms. Komack: yes; Mr. Plumb: yes; Mr. Bennett: yes. All in favor, motion passed 5-0.

Mr. Bennett made a third and final motion, and was seconded by Mr. Lavenburg, that, pursuant to the bylaw's Article XII, Section B sub-section 3, the board make a finding that adequate parking exists in the commercial complex mentioned above to support the proposed use per the testimony and documents submitted by the applicant. Roll call vote - Mr. Lavenburg: yes; Ms. Freyman: yes; Ms. Komack: yes; Mr. Plumb: yes; Mr. Bennett: yes. All in favor, motion passed 5-0.

*Documents presented: Parking Report dated October 26, 2020*

**Petition #2020-15 – Special Permit (Addition) for 69 Tecumseh Dr., Mary Cahillane & Dianne LaBonte:**

The project consists of the construction of a 25' x 17' deck that will utilize the footprint of an existing patio, increasing the property's density by approximately 433 sq. ft. The applicant stated that neighbors have not expressed opposition to the project prior to this hearing.

**Comments from the public in favor of or against the petition:**

- None

Ellen Freyman made a motion, and was seconded by Mr. Lavenburg, that the proposed deck, an improvement that would increase the property's density by approximately 433 sq. ft. or 2.5%, will further intensify the non-conformity of the property with respect to the property's lot size but, given that the new deck would be located within all required setbacks and there was a lack of public opposition, the board finds that the improvement will not be substantially detrimental to the neighborhood than the existing non-conformities. . Roll call vote - Mr. Lavenburg: yes; Mr. Michon: yes; Mr. Bennet: yes; Ms. Komack: yes; Ms. Freyman: yes. All in favor, motion passed 5-0. The applicant was reminded of the appeals process to follow the decision made this evening.

*Documents presented: Survey Plan dated 12/7/2020 and signed/stamped by Surveyor Daniel O'Brien.*

**Petition #2020-16 – Appeal of Building Commissioner's Decision on matter involving neighbor at 108 Eton Rd., Jeffrey & Mary Meehan:**

In October 2020 Mr. & Mrs. Lyons (92 Eton Road) installed a ground-mounted, umbrella-style rotary clothes line in their yard; adjacent neighbor Mr. Jeffrey Meenah objects to said installation due to the unsightly views this apparatus causes from various rooms within his home and from the street, thus prompting communications with Building Commissioner Paul Healy as Mr. Meehan believed the items has been illegally erected and cited in his complaint letter various portions of the bylaw that, in his view, justify the illegality. While Mr. Healy had initially indicated he would provide a Cease & Desist order to the Lyons, Mr. Meehan is displeased with Mr. Healy's reconsideration of the matter by labeling the clothes line as a permissible accessory structure.

The Lyons (108 Eton Rd.) explained that the reason for the installation of the clothes lines is to be more environmentally conscious in a region known for above-national average respiratory issues, and that they had reached out to Mr. Healy before installing the apparatus.

Steve Bennet visited both properties and described the clothes line as removable (only the based is embedded in the ground), its location being near the convergence of the side and rear yard lines and noted that the property lines are lined with shrubs, some of which will grow foliage in the warmer months and provide better screening for Mr. Meehan. Given the size of Mr. Meehan's dwelling unit, he foresees Mr. Meehan's ability to see the clothes line from various windows. The members debated whether the apparatus is indeed an accessory structure or accessory use and if relocation further into the rear yard, away from the side yard and with consideration of the secondary and side setback requirements would be applicable. Suzanne White suggested looking into active or expired restrictive covenants that may be tied to the neighborhood as it has been historically found in some of the town's subdivisions but, more emphatically, encouraged the neighbors to come up with solutions on both ends, such a relocation of the clothes line further into the Lyons' rear yard and planting of additional arborvitaes along the Meehan's property line and windows.

After reminding all parties of proper behavior protocols, Chair Lavenburg expressed the importance of finding a balance between residents' environmentally conscious views and opinions of unsightly structures or uses. Currently the bylaws do not explicitly discuss clothes lines but do discuss unsightly structures, for which the board would

have to make findings. Steve Bennett, echoing the recommendations of Ms. White, suggested relocating the clothes line further into the rear yard towards the centerline of the garage, thus potentially eliminating unsightly views from Mr. Meehan's office; both neighbors have agreed to this proposition. In Mr. Lavenburg's view, reaching an agreement between the parties that mutes the appeal, relieves the board from making a finding on a matter, potentially establishing an unwanted precedent in the town, when public support or opposition was notably absent.

Comments from the public in favor of or against the petition:

- Joel Vengco states the clothes line is visible from the street but not impactful to him from his property.

Dave Lavenburg made a motion, and was seconded by Ms. Komack, that the board continue the hearing on this petition to a future date at which time the neighbors' stance will be reviewed; notice will be duly provided to all parties connected with this matter. Roll call vote - Mr. Lavenburg: yes; Ms. White: yes; Mr. Bennet: yes; Ms. Komack: yes; Ms. Freyman: yes. All in favor, motion passed 5-0.

**Petition #2021-1 – Parking Finding for Change of Use for 682 and 714 Bliss Rd. Maple Rd., Steve Walker from GPT-Longmeadow / Longmeadow Shops:**

Mr. Walker presented the following scope of work:

1. The retail space at 714 Bliss Rd., formerly known as Great Harvest Bread Company, will change use from restaurant to office to accommodate the new enterprise Brenda Cuoco Real Estate.
2. The retail space at 682 Bliss Rd., currently occupied by Caren & Co. with a total area of 2,086 sf, will be subdivided:
  - a. Caren & Co. will retain its retail use with a 1,245 sf footprint and the identification of 682 Bliss Rd.
  - b. Batch Ice Cream will occupy the remaining 841 sf. under the address 682A Bliss Rd, thus changing its use from retail to restaurant.

Steve Bennet stated the following findings of fact: the formulas on the Zoning Bylaw's Article XII, Section G require the Longmeadow Shops to provide 583 parking spaces. Currently, the property is offering 13 parking spaces more than required; the changes in use increase this parking spaces surplus to 16. Subsequently, Mr. Bennett made a motion, and was seconded by Mr. Lavenburg, that the board accept the findings of facts as described above. Roll call vote - Mr. Lavenburg: yes; Ms. Freyman: yes; Mr. Bennet: yes; Mr. Tourtelotte: yes; Ms. Komack: yes. All in favor, motion passed 5-0.

Mr. Bennett made a second motion, and was seconded by Mr. Lavenburg, that, pursuant to the bylaw's Article XII "Off-street Parking and Loading Area Standards", the board make a finding that adequate parking exists in the commercial complex mentioned above to support the proposed use on the commercial spaces described above per the testimony and documents submitted by the applicant. Roll call vote - Mr. Lavenburg: yes; Ms. Freyman: yes; Mr. Bennet: yes; Mr. Tourtelotte: yes; Ms. Komack: yes. All in favor, motion passed 5-0.

*Documents presented: Longmeadow Shops Parking Ratio dated 1/2/2019 and Longmeadow Shops Parking Ratio dated 1/4/2021*

**Meeting Minutes Review:**

1. November 10<sup>th</sup>, 2020 Public Hearing: Mr. Lavenburg made a motion, and was seconded by Mr. Bennett, to approve the minutes as presented. Roll call vote - Mr. Lavenburg: yes; Ms. White: yes; Mr. Bennet: yes; Mr. Michon: yes; Ms. Komack: yes.
2. December 15<sup>th</sup>, 2020 Public Hearing: Mr. Lavenburg made a motion, and was seconded by Mr. Bennett, to approve the minutes as presented. Roll call vote - Mr. Lavenburg: yes; Ms. White: yes; Mr. Bennet: yes; Mr. Michon: yes; Mr. Plumb: yes.

The meeting was adjourned at 8:36pm.

Respectfully submitted,

*Bianca Damiano*