

**ZONING BOARD OF APPEALS
EAST GRANBY, CONNECTICUT
March 25, 2021 MEETING**

A meeting of the East Granby Zoning Board of Appeals was held on Thursday, March 25, 2021. Members present when Chairman John Corcoran called the meeting to order at 7:01 p.m. were Michael Malloy, Jennifer Cook, and Betty Ann Hayden and alternate member Philip Chester.

PUBLIC HEARING

The legal notice was read.

A. Application #21-02 by Timothy Brignole/103 Hartford Avenue.
Seeking an appeal from a decision of the Zoning Enforcement Officer.
For truck parking

Derek Donnelly, Attorney for the Town, explained the powers and roles of the Zoning Board as many of the members had not dealt with an appeal application. He explained the powers under State Statutes and what the procedures should be for the meeting. He stated the Board had three (3) choices: to affirm the order, reverse the order in favor of the appellant or modify the order. A majority of four (4) was needed to pass. All legal requirements up to this point have been met. The interpretation of the regulations was up to the Board.

Carl Landolina, Attorney representing the appellant, questioned Mr. Haynes on his procedures as to what led up to his issuing the cease & desist order. Mr. Haynes stated he had received a complaint from a neighbor. He requested the Building Official visit the site on his behalf and take photos. The truck was parked in the overflow customer parking area. He drove by the site approximately 2-3 times after that. He saw the violation as two (2) issues: it was not parked in a proper area and the truck was being used as a sign.

Mr. Landolina displayed photos of vehicles parked at Valley Fish and R& R Equipment. Both businesses are also on Hartford Avenue. They both have vehicles with signage and are parked where they can be seen from the road. He questioned why these trucks are allowed and why the same violations don't exist for them. Mr. Haynes stated he had not received any complaints and he makes a determination based on the approved site plans. Mr. Haynes stated he never noticed the other vehicles. They were parked farther back from the road and were smaller cargo delivery vans. He also stated that these trucks were not parked in a manner to be used as a sign. There was a display of photos and a discussion which compared vehicle parking on the other sites to the winery.

Mr. Haynes read the definition of signs from the regulations. He noted that the winery was a large parcel of property and the truck could easily be parked elsewhere on the site. Mr. Landolina stated that the order had two parts – one had to do with where the truck

was parked and the other had to do with using the truck has a sign. He wanted to discuss the truck parking location issue first not the sign issue.

Mr. Haynes, in response to a question, noted that other actions have been taken with other businesses in Town who have parked their marked vehicles by the road such as Enterprise Rentals & Z Parking.

There was discussion on how often the truck moved. Mr. Haynes said the solution was simple as an administrative approval to revise the site plan to show a suitable location for the truck was all that was necessary. There was a long discussion back and forth between Mr., Landolina and Mr. Haynes on the wording of the regulations, how it applied to this situation and what sections of the regulations were being violated. Mr. Landolina stated clearly, that you must follow what the regulations say not what you want them to say. The regulations referred to “parking spaces” only. Mr. Haynes stated it was very common on site plans to not only display the parking but the different types of parking such as customer, employee, truck, and loading/unloading areas.

Mr. Brignole stated that the truck was a farm vehicle used to transport product. It was refrigerated and a necessary component to the vineyard. The truck was registered as such and was mobile. Because of the property slope, it would be difficult to park this very large vehicle out back as it would not make it up the hill in winter. He stated that the truck was not a sign and it was parked in a valid parking space. He stated it leaves the site at least three times a week. He noted that he did not feel he has violated anything.

No one spoke in favor of the appellant. In opposition, many abutting neighbors urged the Board to support the cease & desist. Their comments included the fact that they thought the truck was obviously being used as a sign and this was not a commercially zoned business but a farm in a residentially zoned area. One resident of North Road noted the truck on the site on numerous occasions and it often did not move for days.

In his closing arguments, Mr. Landolina reiterated that there is no reason for an administrative approval. The regulations should be enforced as written. There is no specific regulation that requires a designated area for this vehicle. All regulations should be construed narrowly and nothing requires Mr. Brignole to do so. The truck is in an approved parking space. As to the signage aspect, any truck parked in Town with signage parked near the front of the property could be considered signs. It is not a sign if it moves. It is in a parking area. The regulations cannot regulate content. He stated the Board should sustain the appeal and overturn the cease & desist.

Mr. Malloy stated that many of the older businesses in Town are “grandfathered in” for their site plans. He didn’t see the truck as a sign but thought the Board should focus on the site plan parking aspect. He was hard pressed to justify parking the farm delivery truck on the customer overflow parking area. He understood the concerns of the neighbors and truck doesn’t comply with the approved site plan.

Mr. Landolina noted that the site plan section of the regulations doesn't differentiate the types of parking. Mr. Haynes stated that regulations can't be written to cover every situation. There have been changes to the winery site plan as new uses were brought in and the site plan was revised to show the appropriate place for these uses such as the outdoor kitchen area and the food truck locations. It is not uncommon to designate areas for truck parking. Again it was noted that this site was not commercially zoned and was approved by special permit of which a site plan is a component. Mr. Landolina stated that the special permit is for the use of the property only. All farms are commercial operations.

As there were no further comments, the public hearing closed on this application.

B. Application #21-03 by Timothy Brignole/103 Hartford Avenue.
Seeking an appeal from a decision of the Zoning Enforcement Officer.
The use of generators for food truck vendors

Attorney Landolina stated that at this time there is an appeal to the superior court regarding the last approved zoning application referred to by Mr. Haynes in his order. That appeal includes the denial of the generator use. Also Governor Lamont's executive order effective 5/22/2020 had specific language that liquor could only be served with outdoor dining. It was the only way the winery could remain open and therefore the food trucks were necessary at all times. The State pre-empts the Town. Mr. Brignole is not in violation until the executive order is lifted.

Mr. Haynes stated that under the State order, the prepackaged meat/cheese trays that are served at the winery met the requirement and the food trucks were not necessary. He should not be utilizing generators in a residential area and the lack of food trucks was not hindering his operation.

Per the Town Attorney, the executive order was still in force at the time of the cease and desist was issued but the order has since been suspended. Mr. Haynes noted that the last approved plan showed the locations of the food trucks and clearly states "no generators allowed".

No one spoke in favor of the appellant. In opposition, many abutting neighbors stated that they can hear the generators all weekend long, the constant hum is unbearable and that they have lost the use of their own back yards.

Keith Daleb, 4 Gatehouse, stated that the issue predates COVID and Mr. Brignole had verbally agreed not to use generators. He strongly encouraged the Board to uphold the order as the generators greatly affect the entire neighborhood. Other residents of both North Road and Gatehouse stated the same complaints.

There were no further comments. The public hearing closed on this application. The public hearing closed at 8:48 p.m.

NEW BUSINESS

B. Application #21-03 by Timothy Brignole/103 Hartford Avenue.
Seeking an appeal from a decision of the Zoning Enforcement Officer.
The use of generators for food truck vendors

A motion was made by Michael Malloy and seconded by Jennifer Cook to affirm the Zoning Enforcement Officer's cease & desist order for Appeal #21-03 for the use of generators at 103 Hartford Avenue. The votes in favor were unanimous. Motion carried. Alternate Phil Chester voted in place of absent regular member Robert Paskiewicz.

A. Application #21-02 by Timothy Brignole/103 Hartford Avenue.
Seeking an appeal from a decision of the Zoning Enforcement Officer.
For truck parking

Mr. Malloy suggested tabling a decision on this appeal as he saw this as a complicated legal issue as to how to word a motion to amend the order. Common sense tells him the real issue as a parking problem. He did not think it was a lot to ask to find a suitable location for the truck and be consistent with the site plan. He struggled with the "truck being a sign" portion of the order.

Board members discussed how to amend the order and how to state the motion. Members agreed with Mr. Malloy to strike the "truck is a sign" issue. A motion was made by Michael Malloy to amend the order to remove the reference to the truck as a sign and to affirm the remaining portion of the order. Jennifer Cook seconded. On further discussion, Attorney Donnelly noted that the Board should be clear as to what they are striking so the revised order is clear. He also stated the Board could request the ZEO to reissue an amended order which removed the reference to a sign. Attorney Donnelly also suggested the Board could table the motion and he could draft a modification.

A motion was made by Michael Malloy and seconded by Jennifer Cook to table the motion on Appeal 21-02 until the next meeting in order for the Town Attorney to provide language to clarify the motion. Votes in favor were unanimous. Motion carried. Action is tabled until the next meeting scheduled for 4/22/21 at 7:00 p.m.

ADJOURNMENT

A motion was made by Michael Malloy and seconded by Betty Ann Hayden to adjourn the meeting at 9:12 p.m.

Respectfully submitted,

Rosalie McKenney
Land Use Administrative Assistant