

GLASTONBURY ZONING BOARD OF APPEALS
Meeting Minutes of Monday, May 6, 2024

The Glastonbury Zoning Board of Appeals, with Lincoln White, Building Official, and Seon Altius, Zoning and Planning Technician, held a Regular Meeting on Monday, May 6, 2024 via ZOOM video conferencing.

ROLL CALL

Board Members- Present

Susan Dzialo, Vice-Chair
Nicholas Kornis, Secretary
David Hoopes
Jaye Winkler
Elizabeth Cafarella, Alternate (seated)

Board Members- Excused

Brian Smith, Chairman
Douglas Bowman, Alternate
Aaron White, Alternate

Acting Chair Dzialo called the meeting to order at 7:03 pm and explained the public hearing process to the audience. Ms. Dzialo also noted that 4 out of 5 votes are needed for an application to pass and there is a 15-day appeal period. Ms. Dzialo seated Ms. Cafarella as a voting member.

Secretary Kornis read the agenda items.

Public Hearing

- 1. James J. Capece III of 50 Linden Street, Zone A, requesting a special exception to Section 7.1b.2.b.1. for the purpose of building a 2-car garage. The relief from Section 7.1b.2.b.1. is needed due to the dwelling containing less than 4,500 square feet of gross finished floor area & currently having a 2-car garage. The new construction would increase the total number of garage bays to 4**

Mr. White read the application.

Mr. Capece introduced himself for the record and noted that he is looking to add a 2-car garage and explained that his household will have five licensed drivers. Mr. Capece said that the garage is needed to avoid shoveling cars out of the snow during the winter season. He stated that seven neighbors have signed letters of support. Mr. Capece remarked that he is an insurance executive and the proposed garage plans enhance safety. He added that his house sits on a double lot. Mr. Capece asked if there were any questions. Mr. White asked the property owner to display the site plans. Mr. Capece said that he sent the plans via email and provided ten copies. Mr. Hoopes noted that he did not receive the plans. Mr. Capece provided an overview of the application

materials. He explained that the dark tan structure on the GIS is the old garage that has been removed. Mr. Capece reiterated that his house sits on a double lot and explained that there are no neighbors behind the property. He stated that Ms. Winkler saw the property on Saturday. Ms. Winkler noted that the proposed garage would not be visible from the street. Mr. White said that the proposed building is within the building line setbacks and an extra bay is being requested.

Ms. Dzialo asked about the letters of support. Mr. White noted that they were dropped off today and stated that the seven letters of support were signed by the neighbors residing at 32 Linden Street, 38 Linden Street, 34 Linden Street, 43 Linden Street, 53 Linden Street, 57 Linden Street, and 58 Linden Street. Secretary Korns asked if the letters of support were a form letter and all the same. Mr. Capece explained that the letters are the same and reiterated they were signed by seven neighbors. He read out the support letter. Mr. Korns pointed out that the letter references a variance request and explained that it should be a special exception, meaning that a hardship is not needed. Ms. Dzialo thanked Mr. Korns for bringing this up.

The hearing was opened for public comment, either for or against the application, and seeing no one came forward, Chair Dzialo closed public comment on the application.

2. Thomas Kessler of 113 Tall Timbers Road, Zone AA, requesting a variance to Section 7.1b.2.b.3. for the purpose of allowing a commercial vehicle over 11/2 tons, not owned by the owner of the property & not parked in a garage, barn, or rear of the property

Mr. White read the application.

Mr. Michael Dayton of 599 Hopewell Road introduced himself for the record and stated that he helped the property owner formulate the application. He noted that they are requesting a variance and added that there are conditions attached to park a commercial vehicle on a residential lot. Mr. Dayton read out a portion of the regulations and explained that the property owner, Mr. Kessler, does not own the commercial vehicle, the vehicle is over the weight requirement, and explained that commercial vehicles must be parked in the rear yard or in a garage or barn. Mr. Dayton stated that Mr. Kessler does not have a barn and explained that the garage on the property is too small. Mr. Dayton noted that the sloped topography is an issue and explained that the driveway area is about 4.5 feet lower than Tall Timbers Road. Mr. Dayton said that due to the sloped topography, it is impossible to bring a vehicle to the rear of the property. He explained that the septic tank placement is also problematic and added that this portion of Tall Timbers is not served by public sewer. Mr. Dayton stated that it would be impossible to park a truck on this lot. A letter from Mr. Kessler's employer, Garrity Asphalt Reclaiming (located in Bloomfield, CT), was displayed. Mr. Dayton noted that the only lettering on the truck is "Garrity" and added that there is no other advertising. He stated that no repairing or maintenance of the truck would be done at Mr. Kessler's property. Mr. Dayton directed the Board to the letter from Garrity and stated that the truck would not be parked at the residence from December 15 to March 15. Mr. Dayton stated that they have provided letters of support from neighboring property owners across the street, to the left of the house and behind the house

on Bunker Hill Road. He explained that they have made attempts to contact the property owner located to the right and did not hear back. Mr. Dayton noted that the property might be in transition. He explained that Mr. Kessler is at the job site at 6 am Monday-Friday, which is earlier than most people wake up. Mr. Dayton stated that the house was built in 1964 and added that Mr. Kessler inherited the house and chose to raise his family there.

Mr. White wanted to confirm that the bushes are arborvitae and not hemlock. Mr. Kessler replied yes and explained that they are still young and will continue to grow. Mr. White asked about the height. Mr. Dayton replied that arborvitae can grow to 14 feet. Mr. White noted that arborvitae should have a long-life span and explained that hemlock is prone to disease. Mr. Korn asked where the truck is normally parked. Mr. Kessler replied Bloomfield. Mr. Korn asked Mr. Kessler if he has to drive to Bloomfield to get the truck and then drive to the job site. Mr. Kessler replied correct. Mr. Korn noted that it does add extra time. Mr. Kessler explained that he does a lot of urgent work on highways. Mr. Korn asked Mr. Kessler if he is on call during nights and weekends. Mr. Kessler replied yes and explained that it is a rotating schedule with other mechanics. Mr. Hoopes asked if there was a complaint that brought this matter to the ZBA. Mr. Dayton explained that the Town received a complaint 3 years ago that involved another truck. A picture was taken of the old truck and it took 6 to 8 months to straighten out the situation. Mr. Hoopes asked about the weight of the truck. Mr. Kessler replied 26,000 pounds. Mr. Hoopes inquired when the arborvitae was planted. Mr. Kessler replied about a year and a half ago. Mr. Hoopes asked if the planting was done to screen the truck. Mr. Kessler replied that he wanted to make the side of the garage nicer. Mr. Dayton noted that Tall Timbers is an older neighborhood with tall trees and explained that recently some dead trees had to be cut down. Mr. Dayton added that the arborvitae was put in to soften the look. Mr. Hoopes asked how many arborvitae are planted and added that he can see seven in the picture. Mr. Kessler stated that there are ten and noted that the rest are not visible in the picture.

Ms. Dzialo asked for clarification about the December 15 to March 15 time frame. Mr. Dayton stated that the truck will not be parked at the residence during that time and explained that during the winter months there is no grinding of asphalt on highways. Ms. Dzialo wanted to confirm that, conversely, from March to December the truck would be parked at the residence. Mr. Dayton replied yes. Ms. Dzialo asked Mr. White if they received any letters. Mr. White explained that a letter was sent to Mr. Altius from Bruce Baker. Mr. White noted that the letter did not include an address. Mr. Hoopes asked about the signatures on the letter. Mr. Altius noted that seven people signed it. Mr. Hoopes wanted to confirm that seven signatures were on the letter. Mr. White read out the addresses of 6 Old Musket Road and 126 Tall Timbers Road. He stated that these signatures are in favor. Mr. Altius explained that the opposition letter was not emailed and stated that he will look for it. Mr. White explained that the Town is currently in the process of reviewing and updating the regulations, specifically the section on commercial vehicles in residential zones. Mr. White noted that it is a 3-year process and added that the Town is leaning toward allowing commercial vehicles to be parked at residences if there is reasonable screening. He noted that the process is just starting and reiterated that it can take up to 3 years to update the regulations. Mr. Hoopes remarked that he appreciates Mr. White bringing this up and

added that it is relevant. Ms. Winkler asked how soon this change could happen. Mr. White explained that he hopes the Town prioritizes this and added that it is in the early stages now.

Mr. Altius found the opposition letter and read out the seven addresses. The addresses listed on the letter are from 93 Tall Timbers Road, 79 Tall Timbers Road, 69 Tall Timbers Road, 45 Tall Timbers Road, 137 Tall Timbers Road, 146 Tall Timbers Road and 93 Tall Timbers Road. (93 Tall Timbers Road was counted twice.) Mr. Korn asked for the petition to be read out. Mr. Altius read out the letter. Mr. Korn asked if Bruce Baker signed the letter. Mr. Altius explained that the signatures are not legible and added that he does not see his name. Mr. Korn noted that it would be useful to know where Mr. Baker resides. Ms. Winkler asked if Mr. Baker is one of the public members logged in the Zoom meeting. Mr. White looked up Mr. Baker's address and stated that he lives at 93 Tall Timbers Road. Ms. Dzialo remarked that 93 Tall Timbers Road is not an adjacent property. Ms. Winkler noted that the petition from Mr. Baker explains that the whole neighborhood is impacted if these kinds of exceptions are allowed. Mr. Korn asked to move on to public comment. Mr. Dayton asked if he can make a comment first. Ms. Dzialo agreed. Mr. Dayton stated that they have a concern about the petition and explained that the information given to the neighbors might not be accurate. He also noted that the signatures were not verified. Mr. Dayton noted that the Town is working to change the regulations and added that the ZBA must review each application on an individual basis and assess the hardship. He noted that applications can be approved with conditions. Mr. Dayton thanked the Board for their consideration. The Board moved on to public comment.

Mrs. Andrea Hernandez of 79 Tall Timbers Road noted that she does not like the look of the parked truck in the front yard and added that she does not want this to set a precedent.

Mr. Douglas Hernandez of 79 Tall Timbers Road stated that the truck should be parked at a commercial lot. He noted that Mr. Baker lives two houses away.

Mr. David Haught of 136 Tall Timbers Road noted that he lives across the street and stated that the truck is very large.

Mr. Brad Spencer of 520 Bell Street noted that the Town is working on making changes to the zoning regulations regarding commercial vehicles. He explained that this is designed to help blue collar workers and to help people like Mr. Kessler. Mr. Spencer stated that the truck is not that much bigger than a Ford F-250 and added that it is not a huge box truck. He noted that the arborvitae will provide more screening as it grows and added that it is doing a good job now. Mr. Spencer stated that the truck does not diminish neighboring property values and added that they are grasping at straws. He noted that a change in the regulations is coming and added that it is acceptable for such vehicles to be parked in the rear lot or in a garage. Mr. Spencer explained that a lot of people do not have that option and added that Mr. Kessler is doing the right thing. He thanked the Board for their time.

Mr. Hoopes asked Mr. Spencer about his connection to the matter. Mr. Spencer explained that he has been going to Town meetings related to commercial vehicles and added that he owns several vehicles.

Mr. Carlos Veliz of 69 Tall Timbers Road noted that he has a different opinion than his wife. He stated that the information presented by Mr. Baker was not misrepresented. Mr. Veliz stated that his wife signed the petition and he chose not to sign it. He stated that the vehicle would not be an issue if it was a BMW company car. Mr. Veliz noted that there is an element of elitism surrounding which vehicles are acceptable.

Ms. Christine Castro of 69 Tall Timbers Road noted that she has a different view than her husband. She explained that she is concerned about noise pollution and added that she does not know how loud that truck would be in the early morning. Ms. Castro explained that her son has a bedroom facing the front street and added that the noise might wake up her son. She stated that she bought a house in this neighborhood for aesthetic reasons.

There was no additional public comment. Chair Dzialo closed the hearing.

Chair Dzialo stated that a brief recess would be taken before the Board moves on to deliberations.

Action on Public Hearing

- 1. James J. Capece III of 50 Linden Street, Zone A, requesting a special exception to Section 7.1b.2.b.1. for the purpose of building a 2-car garage. The relief from Section 7.1b.2.b.1. is needed due to the dwelling containing less than 4,500 square feet of gross finished floor area & currently having a 2-car garage. The new construction would increase the total number of garage bays to 4**

Motion by: Secretary Kornis

Seconded by: Mr. Hoopes

MOVED, that the Glastonbury Zoning Board of Appeals approves the application by James J. Capece III of 50 Linden Street residence Zone A requesting a special exception to Section 7.1b.2.b.1. to build an additional 2-car garage which would bring total garage bays to 4. The exception is needed as the dwelling contains less than 4,500 square feet of gross finished floor area. The requirements of Section 13.9 have been met.

Ms. Winkler noted that she visited the property and explained that there is a need for parking in the Linden Street area. She noted that the new garage will enhance safety and spoke about past applications with similar U-shaped driveways. Ms. Winker stated that she will vote in favor.

Mr. Korn's noted that the application makes a lot of sense and that the property sits on a double lot. He noted that the garage will not be visible from the street and added that the neighbors provided letters of support.

Ms. Dzialo agreed with Mr. Korn's and added that the double lot helps the application a great deal. She noted that the garage will not be visible and added that the application is entirely sensible.

Mr. Hoopes remarked that he thinks the issue of 4 and 5 bays are ridiculous and added that he hopes the regulations will be updated. Mr. White stated that it is at the top of the list.

Ms. Cafarella noted that she agrees with the comments and added that the application is reasonable and the neighbors approve.

Result: Motion passes unanimously. (5-0-0)

2. Thomas Kessler of 113 Tall Timbers Road, Zone AA, requesting a variance to Section 7.1b.2.b.3. for the purpose of allowing a commercial vehicle over 11/2 tons, not owned by the owner of the property & not parked in a garage, barn, or rear of the property

Motion by: Mr. Hoopes

Seconded by: Secretary Korn's

MOVED, that the Glastonbury Zoning Board of Appeals approves the application by Thomas Kessler of 113 Tall Timbers Road, Zone AA, for a variance request to Section 7.1b.2.b.3. to allow a commercial vehicle of not more than 26,000 pounds, not owned by the owner of the property, not parked in a garage, barn, or rear of the property. The stated grounds for hardship being that it is more convenient for the property owner to park the vehicle at his residence as opposed to a facility provided by his employer. The property owner cannot park it in the rear without changes to the property. The property owner does not have a barn or a garage that fits the vehicle. The requirements of Section 13.9 have been met.

Mr. Hoopes noted that he is not in favor of the application and added that he personally thinks that commercial vehicles should be allowed to be parked in front yards if there is proper screening. Mr. Hoopes noted that the regulations do not allow this. He remarked that the ZBA is usually lenient and explained that, in cases of substantial neighborhood opposition, his approach is to call it straight down the middle. Mr. Hoopes explained that there is nothing unusual about the property to make the case for a hardship. He noted that many property owners cannot park vehicles behind the house and brought up the point that the applicant does not want to spend the money to put in a barn or a larger garage. Mr. Hoopes stated that he agrees with the representative's point about the ZBA being charged with reviewing each application individually. Mr. Hoopes explained that the ZBA has to be consistent and follow the regulations. He repeated that he is not in favor.

Mr. Korn's noted that all three conditions have to be met and read out the regulations: "A maximum of one commercial vehicle may be parked on the lot, provided such commercial vehicle shall have a maximum capacity of one and one-half (1 1/2) tons, shall be owned by the owner or permanent resident of the property which it is to be parked and shall be parked in the garage, barn or the rear yard of the property." Mr. Korn's brought up the point of precedent and added that the ZBA has not been liberal on these types of applications.

Mr. Hoopes agreed with Mr. Korn's and added that these types of applications tend to generate large neighborhood opposition. Mr. Korn's noted that there are boats, RVs, and commercial vehicles parked in side yards and are in violation of the regulations. He noted that this portion of the regulations should be revisited. Mr. White replied that it is at the top of the list. Mr. Korn's noted that it is an inconvenience for the applicant to drive to Bloomfield and added that he is very leery of setting precedent and opening the floodgates. He noted that the regulations will be revisited and added that he will not vote in favor of the application.

Mr. Hoopes noted that he sympathizes with the applicant and hates to make him drive to Bloomfield. He suggested for the applicant's employer to find a place to park the truck in Glastonbury overnight. There was a brief discussion on alternative parking in Glastonbury.

Ms. Winkler noted that she went out to the property and observed the sloped lot, which is a topographical hardship. She remarked that she would not try and drive the truck down the hill. Ms. Winkler agreed with the point Mr. Korn's brought up regarding the 3 conditions that have to be met. She noted that the applicant could modify the current garage with a shed roof and added that the applicant could even get another job or get a promotion. Ms. Winkler noted that the regulations will be looked at and suggested the applicant withdraw the application. There was a brief discussion on withdrawing. Mr. Hoopes noted that, if the rules are changed, the applicant can reapply under new rules. Mr. White noted that an applicant would have to wait a year for the same application and explained that the application would be treated as a new application if the regulations change.

Ms. Dzialo noted that she is sympathetic to the applicant's situation. She remarked that the Board came up with creative solutions that might help the applicant. Ms. Dzialo noted that Mr. Korn's brought up a compelling point on the three conditions that must be met. There was continued discussion on withdrawing the application.

Ms. Cafarella noted that she sympathizes with the neighbors and added that she thinks it is onerous for the applicant to drive to Bloomfield. She noted that the applicant put in arborvitae to screen the truck and remarked that the application does not meet the 3 conditions. Ms. Cafarella noted that, regrettably, she cannot support the application. She explained that the issue veers into elitism, as one commentator stated. Ms. Cafarella remarked that she is new on the ZBA and the reason she opposes the application is that the 3 conditions are not met.

The Board continued to discuss the application and the neighborhood opposition. Mr. Korn's noted that other variance requests are minor and are about a few feet difference with setback. He

explained that something like this potentially affects the whole neighborhood. Mr. White explained that many people are no longer going to the office and are working from home. He noted that many companies are divesting from commercial space and people work from home with or without vehicles. Mr. White brought up the issue of elitism and explained that it is difficult for the applicant to extend the garage or put in a barn. He reiterated that the regulations will be reviewed. Mr. White remarked that he hopes the change to regulations will happen within months and not years. He also added that the arborvitae that was put in will get bigger. Mr. White remarked that it was a good conversation. Mr. Hoopes explained that the process to change the regulations in other towns is easier. He remarked that there is elitism in the regulations and explained that the ZBA does not make the rules and they are charged with applying them fairly. Ms. Dzialo noted that a simple extension of the garage would not work for the applicant and added that it would be very expensive.

Result: Motion fails. (0-5-0)

REGULAR MEETING

1. Acceptance of Minutes from April 1, 2024 meeting

Motion by: Ms. Winkler

Seconded by: Ms. Cafarella

MOVED, that the Glastonbury Zoning Board of Appeals approves the April 1, 2024 minutes as presented.

There was a brief discussion on page 4 of the minutes, voting to close the public hearing. Mr. Korn noted that they do not normally take a vote. Mr. Hoopes stated that he has a vague recollection of Chairman Smith asking for a motion.

Result: Motion passes unanimously. (5-0-0)

2. Discuss In-Person vs. Zoom Meetings

Ms. Dzialo noted that there is no support for Meeting Room A and asked Mr. White if there were any updates. Mr. White noted that he spoke to Krystina about the schedule and stated that there are conflicts with the Board of Education (BOE) which make it difficult to get a consistent room. Mr. White noted that another alternative would be to change the night of the meeting starting in January 2025. He noted that the amended meeting location would have to be recorded with the Town Clerk. Mr. White noted that changing the meeting night could be done earlier. Mr. Korn asked Mr. White to clarify the option of moving the meetings to another night. Mr. White explained that the meetings can take place on a different Monday or a different day of the week. Mr. Korn asked if the second Monday of the month would eliminate conflict. Mr. White noted that he would need to ask his staff to look into it and added that the staff are cleaning up the academy building. Ms. Dzialo noted that July was floated for in-person meetings and asked if it

is feasible. Mr. White replied that July is not possible. The Board discussed the hybrid meeting format. Several Board members reiterated that hybrid does not work in Meeting Room A. Ms. Winkler believes that the Town Council limits the number of times a member can attend via Zoom. Mr. Hoopes noted that limitation would apply to alternates as well. The Board continued to discuss a date for hybrid meetings. Mr. White suggested choosing a day that avoids conflict with the BOE to ensure consistency. Several Board members agreed. Ms. Winkler remarked that progress is being made.

3. Discuss Blight Hearing Officer process

Mr. White noted that they already discussed this and reiterated that the Town Manager needs to weigh in on the selection process. Mr. White explained that the purpose of the discussion last month was to gather a list of willing participants and to pass the information to the Town Manager. Several Board members volunteered. Mr. White thanked the Board members.

Adjournment

Motion by: Secretary Korns

Seconded by: Ms. Winkler

MOVED, that the Glastonbury Zoning Board of Appeals adjourns their Regular Meeting of May 6, 2024 at 8:39 pm.

Result: Motion passes unanimously. (5-0-0)

Respectfully Submitted,

Nadya Yuskaev

Nadya Yuskaev

Recording Secretary