

ENFIELD ZONING BOARD OF APPEALS  
REGULAR MEETING  
**DRAFT MINUTES FOR COMMISSION CONSIDERATION**  
MONDAY, JANUARY 27, 2020 7:00 PM  
ENFIELD TOWN HALL – TOWN COUNCIL CHAMBERS  
820 ENFIELD STREET - ENFIELD, CT

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**Call to Order**

Chairman Maurice LaRosa called the meeting to order at 7:03 p.m.

Commissioner Kelly Davis was seated as Acting Secretary.

Alternate Commissioners Robert Kwasnicki and Catherine Plopper were seated for the absent Commissioners.

**Roll Call**

Commissioner Davis took the roll and present were Commissioners Maurice LaRosa, Andrew Urbanowicz, Kelly Davis and Alternate Commissioners Robert Kwasnicki, Catherine Plopper and Richard Stroiney.

Absent were Commissioners Charles Mastroberti and Mary Ann Turner.

Also present were Raquel Ocasio, Assistant Town Planner and Rick Rachele Zoning Enforcement Officer.

**Old Business**

**Review of Bylaws**

Chairman LaRosa stated that the Commission had received the bylaws earlier in the week. Ms. Ocasio explained that the changes requested by the Commission had been added to the bylaws in red, and if the Commission is satisfied with the changes then they can move forward with the process to adopt them.

Ms. Ocasio stated that the Commission might want to consider shortening the amendments. Commissioner Urbanowicz stated that the Commission had already discussed the issue and decided to keep them because there is no reason they cannot have them.

Commissioner Stroiney stated that one of the concerns of the Commission was having the history of changes and when they had been made. Ms. Ocasio explained that all of the amendments are filed in the Town Clerk's Office. She went on to state that the Town Attorney's opinion states that it is not recommended to include the history of amendments within the bylaws as it can cause confusion and is unnecessary.

Chairman LaRosa stated that he would like to get the opinions of the two absent Commissioners.

**Motion:** Commissioner Urbanowicz made a motion, seconded by Commissioner Kwasnicki, to table the bylaws until the next regular meeting of February 24, 2020.

The motion passed with a 5-0-0 vote.

**Votes:** 5-0-0

### **Instructional Guides & Application Forms**

Ms. Ocasio stated that this is still under review and there are no new materials. She stated that it will move forward once they have obtained legal opinion. No motion or votes were made.

### **New Business**

- a. **ZBA # 2019-12-23-** 79 Enfield Street- Application to appeal the cease and desist order of the Zoning Enforcement Officer regarding the violation of Section 5.20 Use Table for Business and Section 3.00.1 Conformity of Buildings and Land: Use and Occupancy; 79 Enfield Realty, LLC, Owner; Louis Masaschi, Applicant; Map 035 / Lot 0217; King Street/Enfield Street Design Overlay District and Business Local (BL) Zone. (DoR: 12/30/19; MOPH: 02/24/20)

Secretary Davis read the legal notice.

Chairman LaRosa stated that the applicant was not present. Zoning Enforcement Officer (ZEO) Ricardo Rachele provided the Commission with a brief synopsis of what had transpired. He stated that the business is recycling rubber and explained how this process takes place. Mr. Rachele stated that the neighbors say the business operates at all hours of the day and night and disrupts the neighborhood. He submitted photographs of a tractor blocking traffic on Willard Avenue.

Mr. Rachele went over the regulations that this activity is violating. He stated that the previous use of this building was wholesale/retail but not manufacturing.

Mr. Rachele stated that the applicant had been contacted numerous times to notify him of tonight's appeal and he did not show up.

Commissioner Kwasnicki asked if the applicant had received or sent abutters notifications, to which Mr. Rachele replied that he had not sent out letters but it is not in the ZBA bylaws that he has to. He went over the state statutes regarding notifications, stating that at this time there is no requirement for the applicant to have sent them.

Chairman LaRosa asked when the addition was put in and how it had been approved, to which Mr. Rachele replied that it was a Public Hearing in 1969 prior to the current buffer requirements.

Chairman LaRosa asked if the applicant had ever come before the Commission for approval for the recycling business, to which Mr. Rachele replied that they had not and it would not be approved as the use is not permitted in that zone.

Chairman LaRosa stated that the applicant's statement says no recycling is being done on the property. Mr. Rachele explained that the rolls of rubber are being chopped, bundled and loaded onto trucks at the site prior to being shipped off for recycling.

Commissioner Kwasnicki asked if there are regulations regarding hours of operation for a BL zone, to which Mr. Rachele replied that the hours would be set if an application for the business had gone before the Planning & Zoning Commission.

Commissioner Kwasnicki asked if there is a definition for a recycling operation, to which Mr. Rachele replied that the regulations do not go down to specifics as that would make them too long. He stated that in the Industrial Zone it would be considered manufacturing or processing of materials.

Commissioner Urbanowicz stated that warehouse use would not be permitted in the BL zone, so even just warehousing would not be an approved use. Mr. Rachele agreed with this statement.

Chairman LaRosa asked if anyone in the public would like to speak in favor or against the application.

Cheryl Blythe, 6 Willard Avenue, stated that she has photographs of the traffic being blocked. She stated that the noise at the loading dock vibrates her whole house. Ms. Blythe submitted her photographs for the record. She cited a time when a tractor trailer was parked for over nine hours with the engine running, blocking traffic, and the snowplows cannot plow properly. Ms. Blythe stated that the fumes cause odors in her home and the lights are a nuisance in her yard. She stated that there is no buffer and the building and sidewalk are not maintained. Ms. Blythe stated that the business is making noise at all hours of the night and she is concerned that the rolls of rubber are going to fall and endanger her or her grandchildren.

Commissioner Urbanowicz stated for the record that Ms. Blythe had submitted 28 photographs depicting various tractor trailers and semi tractors parked across Willard Avenue.

Karl Damon, 3 Willard Avenue, stated that there are tractor trailers going into his driveway and across the belt line. He stated that they are noisy and terrorizing the street area, and that there should be laws to dictate what type of business can move into a property.

Chairman LaRosa stated that typically a new business would go before the Planning & Zoning Commission but in this case it had not been done.

Ms. Ocasio stated that the last approval was for a Special Use Permit for motor vehicles for rental use for U-Haul vehicles.

Mr. Rachele stated that the regulations regarding buffer zones currently require 35 feet between a residential and a business zone, and 100 feet for an industrial. He stated that the building is 21 feet away from the neighboring property line, so there is no buffer at this point. Chairman LaRosa stated that the businesses there now are only allowed because they were there prior to the buffer zone requirement.

Howard Blythe, 6 Willard Avenue, stated that he has lived on Willard Avenue for 37 years and owns both 6 and 7 Willard Avenue. He stated that this is the worst business that has ever been there, and he has tried talking to the owner of the building and the business but nothing gets done. Mr. Blythe stated that there is junk all over the property and a storage trailer which has been there for two years. He stated that they are chopping up plastic and rubber and he is concerned about his wife's COPD. Mr. Blythe stated that the trailers have been ticketed for blocking the sidewalks, and that the trailers block his driveway and the roadway. He stated that the bay and the dock had been added on even though the area is still residential,

and the back of the building is falling down. Mr. Blythe stated that he would like to see the business out of there and tractor trailers do not belong on that street. He concluded that their quality of life on the street has gone down.

Commissioner Kwasnicki asked what the next steps are following the Cease & Desist. Mr. Rachele described the appeal process and went over the next steps.

Commissioner Kwasnicki stated that it sounds like there could be an environmental component involved in the activities taking place onsite. Mr. Rachele stated that the Fire Department was onsite for the fumes and they found the odors to be strong but the CO levels to be normal. He went on to state that regarding any runoff issue it is not in a wetland area but there is a regulation that determines odors and noise. He stated that they could possibly re-cite, but at this time it is the actual use and operation of the business.

Commissioner Kwasnicki stated that he is concerned both with the possible environmental impact as well as safety due to the tractor trailers blocking traffic and impeding plows and school buses. Mr. Rachele stated that they had been ticketed for the tractor trailers, and now they have hired a Police Officer to direct traffic and avoid the tickets.

**Motion:** Commissioner Urbanowicz made a motion, seconded by Commissioner Kwasnicki, to close the hearing.

The motion passed with a 5-0-0 vote.

**Votes: 5-0-0**

**Motion:** Commissioner Urbanowicz made a motion, seconded by Commissioner Davis, to **AFFIRM WHOLLY THE ORDER: ZBA # 2019-12-23-** 79 Enfield Street- Application to appeal the cease and desist order of the Zoning Enforcement Officer regarding the violation of Section 5.20 Use Table for Business and Section 3.00.1 Conformity of Buildings and Land: Use and Occupancy; 79 Enfield Realty, LLC, Owner; Louis Masaschi, Applicant; Map 035 / Lot 0217; King Street/Enfield Street Design Overlay District and Business Local (BL) Zone.

Commissioner Kwasnicki stated that the use is a violation of what it is zoned for, and there are also other environmental and safety concerns.

Commissioner Davis stated that the safety issues are very alarming and the property was zoned this way for a reason.

Commissioner Stroiney stated that the photographs contradict the applicant's claim that the use is not taking place. He stated that the hiring of the officer does not mitigate the safety concerns.

Chairman LaRosa stated that he is concerned about having a trailer truck in there and who will pay when the driveways and tree belts are destroyed. He stated that the ZEO is correct in his understanding of what the zone is for, and he would like to see some type of buffer put in. He stated that he would like to uphold the ZEO's order 100%.

Ms. Ocasio stated that each Commissioner has to provide a reason for their vote. Chairman LaRosa clarified that they are voting to uphold the ZEO's order and deny the appeal.

Commissioner Urbanowicz voted yes as it is an industrial activity taking place in a BL zone, which is not permitted.

Commissioner Davis stated that she is voting yes for the same reasons as Commissioner Urbanowicz.

Commissioner Kwasnicki stated that he is voting yes as it is an industrial operation in a BL zone.

Commissioner Plopper stated that she is voting yes as it is a BL zone and clearly an industrial operation.

Chairman LaRosa stated that he is voting yes because it is an industrial operation in a BL zone and also there are many safety issues with the trailer trucks.

The motion passed with a 5-0-0 vote.

**Votes: 5-0-0**

Commissioner Kwasnicki asked if anyone can contact any state agency or division with concerns, to which Ms. Ocasio replied that they can.

**Approval of Minutes** – December 16, 2019 Special Meeting

**Motion:** Commissioner Urbanowicz made a motion, seconded by Commissioner Kwasnicki, to approve the minutes from December 16, 2019.

The motion passed with a 5-0-0 vote.

**Votes: 5-0-0**

**Correspondence / Staff Reports**

Ms. Ocasio went over the correspondence contained within the Commissioner's packets, including the Metro Hartford Future Executive Summary, 2020-2021 Land Use Meeting Schedule and updated Commissioners List.

**Other Business**

**ZEO APPEALS FEE**

Ms. Ocasio read through the legal opinion obtained by Staff regarding the ZEO Appeals Fee. Chairman LaRosa asked if there is a way to word it so that if a person loses their appeal then they pay, and if they win their appeal they do not pay, to which Ms. Ocasio replied that they can. She went over the current appeal fees on the applications, stating that the costs do not cover the legal notice fees.

Chairman LaRosa asked if the issue can be tabled in order to hear the opinions of the absent Commissioners. No motion or votes were made.

- a. **ZBA# 2018-10-01**- 148 Enfield Street – Automotive Location Approval Application for a used car sales facility; Vincent Bergamini, owner; Giuseppe Russo, applicant; Map 35/Lot 23; BL Zone; King Street/Enfield Street Design Overlay District. *Zoning Enforcement*

Mr. Rachele stated that the applicant was issued a notice of violation regarding parking of the vehicles. He stated that the issue has been corrected and the cars are parked in the proper locations at this time, so it is not appropriate to discuss it further. No motion or votes were made.

### **Adjournment**

**Motion:** Commissioner Davis made a motion, seconded by Commissioner Kwasnicki to adjourn for the night.

The meeting was adjourned at 8:15 p.m.

**Note:** Next regular meeting of the Zoning Board of Appeals is February 24, 2020.