

TOWN OF GREENFIELD
ZONING BOARD OF APPEALS

October 7, 2014

REGULAR MEETING

A regular meeting of the Town of Greenfield Zoning Board of Appeals is called to order by Taylor Conard at 7:30 p.m. On roll call the following members are present: Taylor Conard, Denise Eskoff, Michelle Granger, Kevin Veitch and Laura Sanda, Alternate. Joseph Szpak is absent.

September 2, 2014 MINUTES

MOTION: M. Granger

SECOND: D. Eskoff

RESOLVED, that the Zoning Board of Appeals waives the reading of and accepts the minutes of September 2, 2014, as submitted.

VOTE: Ayes: Conard, Eskoff, Granger, Sanda, Veitch

Noes: None

Absent: Szpak

NEW BUSINESS

THOMAS MERRILLS, Jr. – Area Variance

North Creek Road

Thomas Merrills, Jr. is present. T. Conard reviews that the applicant is seeking an area variance of 12.187' for frontage for a three lot subdivision. D. Eskoff comments on the wetlands and whether the Planning Board will discuss. R. Rowland states that they have and they will.

RESOLUTION – T. Merrills, Jr., Area Variance

MOTION: D. Eskoff

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals accepts the application of Thomas Merrills, Jr. for an area variance for frontage for property located at 560 North Creek Road, TM#137.-1-26.2 as complete and sets a public hearing for November 4, 2014 at 7:30 p.m.

VOTE: Ayes: Conard, Eskoff, Granger, Sanda, Veitch

Noes: None

Absent: Szpak

JOSEPH MULVANEY – Area Variance

North Creek Road

Joseph Mulvaney is present. T. Conard reviews that the applicant is seeking a rear yard area variance of 55' and a left side yard variance of 20'. This is a pre-existing, non-conforming lot of 1.229 acres in a 3 acre zone. M. Granger asks if there are any other surrounding structures. J. Mulvaney states that it is all wooded in the back. M. Granger states that we recently approved a variance after sending the applicant back to see if we could minimize the amount of variance that they requested. They did go from a 20' variance request to a 9' variance request. She states that that might be an option that comes up at the next Board meeting when it is scheduled for a public hearing.

October 7, 2014

RESOLUTION – J. Mulvaney, Area Variance

MOTION: K. Veitch

SECOND: D. Eskoff

RESOLVED, that the Zoning Board of Appeals accepts the application of Joseph Mulvaney for area variances for property located at 1042 North Creek Road, TM#137.-1-14.2 as complete and sets a public hearing for November 4, 2014 at 7:30 p.m.

VOTE: Ayes: Conard, Eskoff, Granger, Sanda, Veitch

Noes: None

Absent: Szpak

MARY LISA BAKER – Area Variance

Lady Slipper Lane

Mary Lisa Baker is present. T. Conard reviews that the applicant would like to replace an old mobile home on a pre-existing, non-conforming lot of roughly 20 acres and 16.32' of frontage. The variance being requested would be 183.68' for frontage. K. Veitch questions that a new septic system will be installed. M. Baker states that she will be getting a new septic because the existing septic is only 62' away from the well. The well is perfectly good.

RESOLUTION – Mary Lisa Baker, Area Variance

MOTION: D. Eskoff

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals accepts the application of Mary Lisa Baker for an area variance for frontage for property located at 15 Lady Slipper Lane, TM#111.-2-39.11 as complete and sets a public hearing for November 4, 2014 at 7:30 p.m.

VOTE: Ayes: Conard, Eskoff, Granger, Sanda, Veitch

Noes: None

Absent: Szpak

OLD BUSINESS

GERALD FERRIS – Area Variance

North End Road

Gerald Ferris is present. T. Conard reviews that the applicant is seeking to subdivide two parcels and requires an area variance for frontage of 250' per lot. This is a 20 acre lot and the new lots will be 10 acres each. The Town Board has granted an open development permit.

A public hearing is opened at 7:40 p.m. One letter was received from Christopher and Colleen Sanita in favor of the request. There being no further public comment, this public hearing is closed at 7:41 p.m.

T. Conard states that these are good size lots. D. Eskoff comments that this will be going back to the Planning Board for approval of the subdivision and they will be reviewing any easement, right-of way issues, etc.

RESOLUTION – G. Ferris, Area Variances

MOTION: K. Veitch

SECOND: M. Granger

RESOLVED, that the Zoning Board of Appeals grants area variances to Gerald Ferris for a minor subdivision of property located at 571 North End Road, TM#122.-1-22.1 as follows:

October 7, 2014

- **Frontage area variance of 250' for lot 1**
- **Frontage area variance of 250' for lot 2**

This approval is based on:

- **This is a pre-existing, non-conforming land locked parcel**
- **The Town Board has approved an Open Development Permit**
- **No negative impact to the surrounding neighboring properties**
- **No negative impact to the environment**
- **This cannot be accomplished in any other way**

This approval is contingent upon:

- **Approval of the Planning Board for the subdivision and any contingencies that they may have**

VOTE: Ayes: Conard, Eskoff, Granger, Sanda, Veitch
Noes: None Absent: Szpak

CARL & MARIANNE GAGE and DAVID & CATHY DOMOZYCH – Interpretation Request
Allen Road

Applicants are present. T. Conard reviews that this is an Interpretation Request of whether soil sifting is an allowed use for a Contractor's Storage Yard, Small.

A public hearing is opened at 7:45 p.m. David Domozych, Allen Road, thanks the Zoning Board for the opportunity to present their case. He reads from his letter dated 10/6/2014. Regarding the 'current activity' D. Domozych states that two large soil- and mulch-processing machines were used extensively, and most recently on September 26. He refers to the photos attached to his letter and the two pieces of soil manufacturing equipment. D. Domozych refers to a wetland area on the property; it is not a designated wetland but was a former beaver impoundment that has since been covered over. Kayla Davis, owner of the subject parcel, states that the topsoil plant that he is discussing is a stump grinder that they are using for their home. They have actually had a company come in and grind the stumps from the property where they are building their house. It is not a topsoil plant, it was there for 1 ½ days. It has nothing to do with J & K Trucking. Laura McDonald, Mia Way, states that she is directly behind the subject property and she does not hear anything. Any noise coming from the property is during regular business hours, not at night or early in the morning. She does not see an issue. Tracy Wall, North Greenfield Road, states that her property backs onto the subject parcel and she hears a lot of noise and it is not construction noise. She agrees that this is very disruptive. She uses her property for quiet trail riding for her horses. The whole back side of her property backs onto the subject parcel which has been basically stripped and there are dead trees lying all over the place. She finds the noise very disruptive and she does not know how someone right next door couldn't hear it. Linda Beauregard, Mia Way, reads from a statement she provides to the Board. Dominique Rowland, North Creek Road, states that she was on the property on September 26th and the piece of equipment that was there was a stump grinder there was no soil grader or manufacturing plant present. In response to the home being constructed, the walls of the foundation and the basement have been poured and the garage, other than that the home is not finished. Evelyn Ladd, Allen Road, states that she does not hear the noise from her house. There are going to be trucks coming in and out, but do you take away someone's livelihood and make problems for them when he has employees also who have their families to be taken care of. Is the Town that naive that we have come to this, that we can't have small businesses? As far as the noise, you are going to have some in the country. K. Davis states that they do try to be considerate as to the noise. They purposely on Sundays do not run anything; do not work on any equipment. Occasionally

October 7, 2014

something will get turned on, but it is Sunday, it is family day, that is what they consider it. Monday thru Friday, the guys come in in the morning, grab the equipment and leave. It is 9 to 5, maybe some days 9 to 6 or 8 to 6. They don't work at night; equipment does not get run at night. Occasionally if a truck needs to be moved or something in the middle of the night, it gets moved, but they are not working on equipment at night. They have kids too, and are going to be living there. It is not loud noise where it is going to wake you up. Yes, you can hear it; you can hear trucks driving on the road. Who is to say that it is not a dump truck driving down North Greenfield Road that they are hearing? She states that he is very considerate to time wise, people need to sleep, family time, etc. K. Davis states that she grew up with trucks and can sleep thru it, you can sleep thru it. We live in the country; you have big rigs driving up and down the roads; the Town plowing at night; etc. She states that her existing house is 1000' off the road, plows come thru and you can hear it. It is where we live and people need to do their business, need to take care of things, roads need to be built, houses need to be done – it is construction. He tries to be considerate and do things during business hours. Adrienne Freeman-Gallant, Allen Road, reads from a letter she and her husband have submitted. Jacquelyn Chandler, Allen Road, states that she does hope that the Board checks into what the accusations are against J & K. She knows that J. Davis has a dump truck and an 18-wheeler. That is all he has. They keep saying lots of trucks in and out all day long. He owns a dump truck that goes out on site work and an 18-wheeler that delivers equipment to the sites he is working at outside of Greenfield. She states that he is not manufacturing topsoil as was stated, they are building a house and things are going on with that. She lives on Allen Road; she does not see trucks all the time. If she does, they are Greenfield trucks that are working. They just finished Bockes Road, they just did deliveries to places that wanted the fill from the roads that they were clearing. She states that the increase in trucking is not from J & K. If you are going to accuse someone, know what you are accusing them of, see what equipment he has. Other people on Allen Road own equipment and it may not be J. Davis, it may be other people running equipment that you are hearing, but it is where we live. He is making a livelihood, he is providing jobs for other people and he is considerate and a family man. Marianne Gage, Allen Road, she states that she came to the Town Hall to find out from G. McKenna if he was aware of this soil business that was going on and initially he said no, then he said 'oh, yes, I had a phone call from J. Davis and told him that it would be ok to do what he wants to do'. She states that the screening machine has been sitting there for months; it was just moved this past week. He was manufacturing topsoil. K. Davis states that the screening plant that he has, she does not think it is there right now, it was there. The topsoil that he did screen when he did screen was from job site that he cleared, bring it back to the site and then screen it, and bring it back to the job so that it is good quality top soil. He is not manufacturing it to sell it off to whatever. It goes back to the job site. He has not done any recently and does not do a lot of it, only when it calls for it, but it is not something that is constantly run or he is manufacturing. She states that J. Davis did speak to G. McKenna about it and they bring it in with their own truck and then bring it back out. L. McDonald asks how does everyone know what is on that property, is that not trespassing on private property? How does everyone know all these details? D. Domozych states that he lives right next door to J & K Trucking and his house has probably been more devastated than anything else. First of all there are pictures and he states that it was there about an hour and 15 minutes ago and is probably still there. He points out some of the pictures and indicates that you can see the amount of soil that has been processed. This is not for a house. We just heard that it is also for jobs. This is enough soil to fill in the White House of the United States. The other important thing is that they have tried to be patient, they have gone to the Town Board, they have gone to the Planning Board and they respectfully ask that we stop this particular process. K. Davis explains that the fill that is there is for the house. The house is going to have a walk-out basement and they have fill there to fill in around the house and then slope down the back. They have numerous amounts of fill there and it is all for the house they are putting in. Hopefully they will have topsoil on top if theirs, but right now they are filling in the entire backyard so that it slopes nicely and has a good grade. The site needs more fill than they anticipated to begin with. They have the bulldozer to push the soil to grade the site, putting in a perimeter drain and fill around the house. There are numerous things you have to do for building a house so that it is done correctly. They don't want water in their basement; all this has to be taken into consideration to have it built right. This is their future home, forever, and they don't want to mess it up. They want the grade right around the house, they want everything done correctly. All that is there is for the house, it is all piled up around the house and it is from the property for the house. There being no further public comments, this public hearing is closed at 8:12 p.m.

October 7, 2014

K. Veitch states that he appreciates everyone giving their opinions, but at this time we are done hearing opinions and statements. When the Board starts asking questions and the public may not agree with the answers, they have to understand that the Board is doing what it can do, but we have to keep order in order to what we are supposed to do. K. Veitch asks K. Davis when they are planning to have their CO for the house. K. Davis states that it would be nice to be in by the end of December, but latest, late winter early spring of next year. K. Veitch states that K. Davis is claiming that they are running a Contractor's Storage Yard, Small. When the house is all done and landscaped, obviously they are still going to have the opportunity to bring their equipment and materials and store them on the property. He asks if she understands the line that gets crossed when the neighbors start talking about manufacturing, does she understand about the processing of soil? That seems to be the issue. What happens is that when you start processing soil on the property, now you push yourself into what is called light industry. No one wants to take any business away from anyone, no one wants to stop anyone from having jobs, we are not about that, but we are about someone fitting within their neighborhood within reasonable expectations. K. Veitch states that there is a machine that seems to be the crux of the problem and they are running it on the site. He states that K. Davis is saying that they are running for their own material on the site for the construction of the house. K. Davis concurs. K. Veitch asks if once the house is built and completed, there is not going to be any more screening done on the property. K. Davis states that it is not all done for the house, it is also done for the work that J. Davis does. K. Veitch asks if the screen is portable, and can be brought from job site to job site. K. Davis states that it is, she does not know if it is road legal though. K. Veitch states that then K. Davis understands the issues with the neighborhood and the issues with noise. The Board, and he believes the neighbors, understand J & K's right to have a contractor's storage yard under the small definition. He states that to him, when the manufacturing part comes in is when they start doing screening. When you start bringing materials from another location and bringing them in to process them, to bring them back out – whether you sell it or not – to him kicks the switch that this is light industry. That is the only thing that is really causing J & K a problem. He states that if they were to adjust their activities to not perform those things on site, he thinks that a lot of the problems would be resolved. The Board cannot do anything about the truck traffic that comes and goes. Certainly they have the right to drive up to their property, the right to drive out of their property, have the right to have the equipment on the location, they have the right to have materials that they would use for construction for the sites they do, as a contractor would in any specific trade. It is the processing which is the key problem. D. Eskoff states that there are two issues – the construction of the house and trying to grade the property over the course of time, and at the same time have constructed a storage garage for the business, which is fully understandable. The problem is that it is a storage building, emphasis on the word 'storage', and anything that goes above and beyond becomes a different form of business and there are parts of the Code that discuss noise and construction. Construction applies to the construction of your home and those hours, but it does not apply to a contractor on his house going to another construction site. There are air particulates that are of concern. We do live in the country and while that may be a positive for some, and you can say you don't hear the noise or you do hear the noise, you can be 1000' away and hear noise and be 200' away and not hear noise. Unless you are in those other people's position you don't know what they are hearing, so there is a lot of give and take in that. D. Eskoff states that the Town of Greenfield Code, Section 105-127, specifically says contractor's storage yard standards. She reads from this section. She states that the most pivotal part of this particular part of the code is that it states that storage of building materials, etc., must be indoors unless approved by special use permit. She states that J & K does not have a special use permit, and with all due respect to G. McKenna, he did not discuss this in his notes. The ZBA has to look at the entire code and try to make everything work together here. She states that this goes on to discuss the weight of the vehicles for large and small. In J & K's case, she is assuming that the two vehicles are no more than 26,000 which puts them under the definition of small. She states that the area requirements table is totally vague on small storage yards, so that puts us at a bit of a disadvantage, but at the same time it makes a presumption that there shouldn't be a whole lot going on at those because they are in a low density residential area. K. Veitch states that then to make it clear we agree that the difference between Contractors Storage Yard, Large and Small, is only the amount of vehicles that they can store. D. Eskoff states that there is no other distinguishment that she can see. She states that she does not know the background as to why this is in the code, if it was taken from the NYS Code and adapted to Town Code. We just know what it says and what we have to interpret. T. Conard asks if the Board read the definition of light industry. T. Conard reads from this definition and reiterates that these are raw

October 7, 2014

materials which are excluded. The Code is somewhat ambiguous. K. Veitch states that he believes that a commodity is something that is bought, traded and sold as a commodity, and raw materials are a commodity. K. Veitch asks how much work K. Davis thinks they have to do for the material that they are going to be preparing for their property. Have they produced enough material to do what they need to do? K. Davis states that it will be winter by the time the house is set so they would be done with that in the spring to finish the landscaping. K. Veitch states that then there wouldn't be any reason to be running the machine at all then. K. Davis states, not once winter hits, no. K. Veitch states that he understands that K. Davis wants the piece of equipment there to do the job that they have to do, it is fortunate that they have a piece of equipment that a lot of us would like to have when building our house, but at some point in time that is going to have to stop. K. Davis states that once her house is done she is not going to allow that as a lawn ornament. D. Eskoff states that it is obvious for what their business is, that excavation, soil preparation is going to be part of it, it is just whether or not he can do the actual manufacturing, large scale. It is a large piece of commercial equipment; it is not covered under the gross weight of these types of trucks from what she can tell. It is almost like a separate entity. K. Veitch states that they are shipping in and shipping out, it is no different from the Ball Plant having material come in, processing it into cans, shipping it back out. D. Eskoff questions that it is something that would require a special permit to be used beyond storing it. M. Granger reiterates that the definition of light industry says "not to include the storing or processing of raw materials". Soil is a raw material. T. Conard concurs. M. Granger states that the other thing is that under 105-127, e – it says, not including trailers. So if the machine is transported by a trailer it is not an actual vehicle unto itself. They are not exceeding the number of vehicles because this is not considered a vehicle. M. Granger states that if you are a trucking and excavator individual and that is your business, what else do you excavate besides soil? D. Eskoff states that it would become more of like an excavating plant which carries with it noise and particulate issues, which maybe the Town would have to look at and do they want that on there, or is it just storing top soil. You bring a dump truck, it dumps the top soil, you put the soil back on and go out. You are not running a machine to do anything with it. T. Conard asks if there are other people transporting besides their trucks to the land and out again. K. Davis states for the house not for the business. D. Eskoff states that she thinks it is the creating topsoil vs the storing topsoil. If you are creating or manufacturing topsoil or anything, you are not storing it. T. Conard states that it does not come under the light industry. D. Eskoff states that it does not fall anywhere. L. Sanda questions that K. Davis stated that they own one dump truck so when they are doing jobs at a subdivision, they have one truck that comes unloads, screens and goes back. K. Davis states that is correct. D. Eskoff states that maybe this is why this was put in this way – if it doesn't fall into this category go get a permit because we want to know what is going on. That is the way she looks at it. K. Veitch states that going back to light industry, 'The act of storing, preparing for treatment, manufacturing or assembling any article, substance or commodity not intended for retail sale on the same premises,' and then it says 'not to include the storing or processing of raw materials.' He states that he wants to know what the difference is between a commodity and a raw material. D. Eskoff states that she thinks that soil would be a raw material and sod would be a commodity. M. Granger agrees and states that we also have a letter from our attorney saying that we do not have to rule on this tonight, we have 62 days to give a ruling, so if there are additional questions. K. Veitch states that he has some questions and would like to visit the site. M. Granger states that the other thing that is relative is what case law is out there in terms of light industry, definitions – that is something that we could refer to our Town Attorney in terms of whether there is case law out there that addresses these types of definitions that we have in light industry vs. the definition we have in Contractor's Storage Yard, Small, because that definition clearly says 'and other materials and facilities customarily required in the building trade by a construction contractor.' She states that she thinks that there is an argument to be made that a screening machine, if you are an excavator and you are excavating a site, you bring it back, you clean the soil up and return it to the site where you are contracted to do your work. D. Eskoff asks do you bring it back to your place of business or your storage yard. She asks if this will be their principal place of business. The property is their home, their business and the storage yard is secondary to the business. D. Eskoff states that she thinks that the actual sifting would be part of the business enterprise and not storage. M. Granger states that K. Davis gave an example of them doing a subdivision, bringing the soil back to their property and then returning it to the site. She asks if that is the only situation in which they would be doing any kind of screening of topsoil, because if we are going to ask for a legal clarification on some of these outstanding questions and issues, it is important to know the scope work. M. Granger states that if we are going to ask for clarification, then we are going to request that J & K

October 7, 2014

provide something in writing to clarify what the scope of work is so if we ask for a legal analysis, perhaps some case law and clarification of these definitions, what that scope of work entails because that may directly effect this ruling and how the interpretation goes forward. D. Eskoff states that we are only here to look at a very small section of this, which we cannot address many of the issues brought up tonight. Those would more properly be put before the Town Board, but we are here to simply interpret what our Code Enforcer has determined. M. Granger states that is simply the screening of soil process, that is the only thing that this Board is looking at. She states that we have a few different definitions that seem rather vague in terms of light industry, what are we actually considering light industry in this particular instance, and that goes back to the scope of work. Is it reasonable that within 7 business days we get some kind of written letter clarifying what the scope of work is, is this the only instance where you would be doing screening of soil, would that be reasonable. We start with that and then we are going back to the Town Attorney and what we are looking to find out in terms of light industry, and K. Veitch's question seems to be what is a commodity vs. a raw material. K. Veitch states that it comes down to we are being allowed to handle, manufacture treat commodities – that is allotted in the industrial area but not to include the storing or processing of raw materials. Those two words could almost be the same thing, and the fact that they are in there, then to him he needs a better definition of what those words mean. D. Eskoff asks if we have anything for agricultural business because soil is part of landscaping. M. Granger reads the description of landscaping. K. Veitch states that it may be a raw material when they bring it to the site but then after they sift it, it becomes a commodity. M. Granger states except that if you are returning it and you bid that job, based upon your scope of work which automatically includes cleaning the soil that you return, then she would argue that you are not selling it as a commodity. You've bid a job based upon the scope of work and clearly defined that scope of work. K. Veitch states that 'commodity' is one of the choices. It is 'any article, substance or commodity'. Bringing it back – dirt could be a substance. M. Granger states that she is still not clear what the question is. K. Veitch states that his question is, what is the difference between processing raw materials and 'treatment, manufacturing or assembling' substances or commodities. Why are we excluding one part of something and he does not understand what that part is. We are saying 'not to include the storing or processing of raw materials' but we are saying it is ok to prepare, treat, manufacture, assemble any articles or substances. D. Eskoff asks what about commercial sand and gravel extraction. She is trying to distinguish that they fall into a whole different category. M. Granger states that part of what she would like the legal clarification on is exactly that – if my business is excavation and trucking, and part of the scope of work is soil removal, cleaning up that soil and returning it, then does that put me into another category or is that acceptable. Is it part of a storage yard? That is what we are trying to determine. This particular aspect of this individual's business, it seems part of it. D. Eskoff asks if anyone is saying that it is not part of the business. K. Veitch states that he is not saying that it is not part of the business; he is just saying that the storage yard is for storage of equipment and materials that they use in the normal operations of their business. They are coming in and screening is a process and it is something that can be very easily done on site or near the site vs. trucking out, especially larger sites. D. Eskoff questions that there are no permits associated with this property other than building permits. K. Davis concurs. D. Eskoff states that the soil is not going to be in a building, unless they are the Town Garage, but to go beyond that to say that you are doing something with other than shoveling it in or out, then that is part of the business and is that a business that is supposed to be in the LDR – that goes beyond what we are supposed to be determining. What G. McKenna basically said is that it is part and parcel to their business, which is pretty much a given. K. Veitch states that he agrees with that and he is sure that there are circumstances in any public business, although it might be part of your business, you don't necessarily process your material at your storage yard. D. Eskoff states that is her issue with it too, the process itself. She does not believe that processing is storage. It is either allowed as a business in the LDR or it is not, or it needs a special permit. She thinks that Towns need to have some distinguishment between storage and a business, and there has to be a line somewhere. M. Granger asks if we are back to the definition of light industry and it clearly excludes 'not to include the storing or processing of raw materials.' K. Veitch states that he went to light industrial because it was the only thing close enough that he could put his finger on to Storage Yard, Small that would seem to include processing. Maybe that is where we are going to have to start having Contractor's Storage Yards, Light Industrial. Every time a code is made, every time a law is challenged, things change, we have to modify as we go along. M. Granger asks K. Davis for permission to visit the site. K. Davis approves. M. Granger states that it seems that it is storage vs. processing and the definition of light industry, a clarification of that

October 7, 2014

definition because it specifically excludes raw materials. So, we would like to refer this to legal and hopefully they can clarify, possibly with some case law. K. Veitch states that G. McKenna is good at what he does and he trusts him. D. Eskoff states that the Code jumps around.

RESOLUTION – C. & M. Gage and D. & C. Domozych, Interpretation Request

MOTION: M. Granger

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals tables the application of Carl & Marianne Gage and David & Cathy Domozych for an interpretation request for property located at 336 Allen Road, TM#124.-2-45 to the November 4, 2014 meeting, contingent upon:

- **Request clarification from Legal Council for the definition of ‘light industrial’ because it specifically excludes ‘the storing or processing of raw materials’**
- **Clarification of storage vs. processing – if that is permissible as our code reads under 105-127 and LDR**
- **Site visit to take place October 11, 2014 at 9:00**
- **Letter from J & K Trucking as to what their scope of work involves specific to the screening process**

K. Veitch states that his thought on storing, preparing for treatment, manufacturing or assembling any article, substance or commodity not intended for retail sale on the same premises’ – something like maple syrup people who do everything there, it is processed there, it is all brought there but then again you could say, is the maple sugar that is pulled out of the trees, is that a raw material? M. Granger requests J & K provide clarification of what the scope of work is that involves this process so that that information can also be submitted to legal counsel, so that there is a thorough understanding, hopefully, of what the issue is here in terms of the business and what the scope of work would include regarding this piece of equipment. D. Eskoff asks for any other information regarding any trucking licenses, DOT, whoever they happen to be regulated by so that we have the actual information.

VOTE: Ayes: Conard, Eskoff, Granger, Sanda, Veitch

Noes: None

Absent: Szpak

M. Granger states that we should be able to get this information for the November meeting to be able to make a decision. Ideally there would be some research done in terms of case law that would be applicable to this particular set of circumstance because it is in everyone’s best interest if there is case law out there. If there has been a ruling on similar circumstances, it would save anyone a lot of money if they are thinking of pursuing this further. D. Eskoff states that the Board will be taking everything into consideration that they possibly can within the boundaries with which they can. M. Granger states that the ZBA’s scope of decision is very narrow in terms of this one particular process and how this can proceed forward. She states that the Board understands that there are other concerns there but there seems to be other factors that may be at play. She knows living in Greenfield, depending on the time, she can hear a truck that is going down Route 9N, depending on the time of day how that sound may or may not travel. We cannot adjust any of that because it is not before this Board and it is not within the scope and authority of this Board. It is not that the Board does not hear the public, there is nothing that can be addressed with that and it may be due to other factors other than J & K Trucking.

Meeting adjourned 8:54 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland
Secretary