Zoning Board of Adjustment

November 30, 2022

Public Hearing

Members Present: Roger Whitehouse, John Russo, Chris Stafford, Michelle Cooper, Walter Baird, Jason Holder

Others Present: Gail Turilli, Brian Daley, Crystal Daley, Jason Youzwak, Kathy Youzwak, Susan Chandler, Laurie Taylor, Jim Lanza, Donald Morse, Florence Morse, Aamber-Rose McIntyre, John Grover, John Grover, Sr., David Knight

The minutes of 11/2/22 were reviewed and there were no comments from the Board. Roger **made** and John 2nd a **motion to accept the minutes as written.** All in favor, with Chairman Stafford abstaining. **Motion carries with a vote of 5-0.**

Chairman Stafford mentions that after our last hearing on 11/2/22, Mr. Skinner withdrew his application after speaking with the Building Inspector, therefore the hearing is closed, and no decision needs to be documented. The Board needs to confirm all voting members prior to opening the hearing as there are

5 members and 1 alternate present. The five members would vote unless one member recuses themself. At that point the alternate would take the member’s place. All Board members were asked if they are going to sit in on the hearing to which all stated yes. The applicant, Mr. Grover, asked for clarification on the disqualification of a member before moving forward. He asks if a vote on disqualification needs to be initiated by a Board member or the applying party. Chairman Stafford explains that any Board member, abutter, or applicant can raise concerns about a Board member but, can’t vote to disqualify a member. The member would have to recuse themselves.

Mr. Grover states that he is uncomfortable with Walter being able to vote given that he lives within a few hundred feet and feels that this could significantly impact his day to day life and make him potentially not impartial on the vote. In addition, at the previous hearing, Walter’s wife submitted a

multi-page letter of context to the Board regarding this special exception. Due to his uncomfotability, Mr. Grover feels he needs to make this request for Walter to be a non-voting member given that there was a lot of vocalization in opposition to his special exception request. Chairman Stafford explains that each member that sits on the Board has a responsibility to be objective, impartial, and assess themselves individually whether they feel that they can weigh the evidence objectively for or against the application. Living in close proximity or being an abutter isn’t an automatic disqualification, it’s a personal decision. The applicant or Board members can make the request but, can’t vote a Board member off, it is up to the individual Board member. Walter stated that his wife did everything in writing, gave it to the clerk, and read it at the prior hearing. She is a very confidential person and will help anyone with anything. He had no knowledge of what was written and she had every right to do what she did. Roger is not in agreement with this and expressed his concern that Walter would not be impartial to this case. Walter stated that he is not prejudice against the applicant and will not be stepping down. Chris asks if Walter feels he can be impartial. Walter states that he hasn’t heard anything tonight and will listen to what is said, and make a decision based on the facts. Mr. Grover stated, just for clarification and that he is not being disrespectful or saying that Walter couldn’t be impartial. He felt an obligation to himself to vocalize his concern. Walter stated that he can’t help seeing Mr. Grover speeding by his house. Chairman Stafford expressed that Walter is already stating an opinion. Walter re-iterated that he can’t help where he lives, seeing neighbors and what they do. Jason notes that Mr. Grover has legitimate point and was able to verbalize it. He understands where Walter is coming from and observed a little emotionality and at the same token, Roger expressed a little bit of cross examination. Jason thinks the Board is at a point where they can move on and asks if they feel they can do so. Walter stated that there were things going on behind the scenes that John, Jason and himself were unaware of. Chairman Stafford stated the Mr. Grover’s concern has been documented and addressed. The Board will now move forward.

**Case 2022-5 – Grover - 45 Beechwood Drive Special Exception:**

Chairman Stafford noted that the Board had a previous application that was denied for 3 reasons and is all public record. He explains that if an application is re-submitted and it is exactly the same, the Board would typically not hear it but, there are a couple of options when an application is denied. There could be a request for a re-hearing and typically the request is because the applicant didn’t feel that the Board weighed all of the information or that there is new information that would change the Boards opinion that wasn’t presented at the hearing. The window of opportunity for a re-hearing is 30 days and a request for a re-hearing was not made in that time. The only other alternative for an applicant if they feel that they have addressed the issues, is to re-submit another application that is different and complies with the special exception criteria. The Board has received a new application that is different from the previous one and that is why the Board is hearing this application. At this time, Chairman Stafford declares the voting members of the Board as Roger, himself, John, Jason and Walter. Michelle will not be a voting member as she is an alternate. The public hearing is now open. Roger asks that the public address the Chairman if they wish to speak. He noticed a “free for all” at the last hearing which makes it harder for Gail to take notes. He also requests that the Board members do the same. Chairman Stafford explains that any hearing has to have order and has to have a process. The application will be reviewed, the applicant will have the opportunity to present his case, the Board will ask questions and then the hearing will be opened to the abutters for comments, addressing the Board. Once all testimony is received, answers to the questions are provided and the Board feels they have all of the information that is needed, the public hearing will be closed and the Board will deliberate. This application is for a Special Exception for a home occupation. With any special exception, the first step is to look at the criteria and see if the application meets all criteria. If the application meets all criteria, the applicant wouldn’t need to come before the Board, could go to the Selectmen for approval. This application is coming to the Board because there is a commercial vehicle that is over 15,000 pounds. With the special exception, there are very specific criteria. If the applicant meets the criteria, the Board must grant the special exception. If all of the criteria or just one part of the criteria isn’t met, the Board must deny the application. There are no restrictions. In a variance case, there can be restrictions that tailor the criteria but, not allowed with a special exception. At this time, Mr. Grover Sr., asked if the criteria that were not met previously would only be discussed or all 6. Chairman Stafford explains that since this is a new application, all 6 criteria will need to be addressed. Mr. Grover reads all of the criteria, one by one, and his responses are as follows:

1. The accessory use shall require no more than one on-site employee in addition to the owner(s) of the property. Mr. Grover stated that he is the only employee.
2. Adequate off street parking will be provided for the employees and potential customers. Mr. Grover stated that there is no parking needed as he is the only employee and there are no customers coming on the property.
3. Any changes made to the residential lot as a result this accessory use that affect the external appearance of the property, dwelling, or any accessory building, shall be in keeping with generally accepted good residential architectural practices and styles and shall conform, in general, to the surrounding neighborhoods architecture. Mr. Grover stated that no changes have been made.
4. There will be no outside storage of equipment or materials associated with the home occupation nor will there be any hazardous chemicals used or stored on the premises. Mr. Grover stated that there are no hazardous materials or excavation materials stored on the premises.
5. There shall be no commercial motor vehicle nor shall there be more than 2 non-commercial motor vehicles used in conjunction with the home occupation except that, where the business takes place primarily away from the primary residence, such as a service tradesman, the business owner may park no more than one commercial motor vehicle related to the business at his/her residence provided that: a. There is adequate space for full off-street parking of the commercial motor

vehicle. Mr. Grover stated there is adequate space

b. The commercial motor vehicle is not parked on Town property, including

street, parks, and rights-of way. Mr. Grover stated that the vehicle is not

parked on Town property/Rights-of way

c. The commercial motor vehicle is parked at least 50ft from any

abutting property line and at least 75ft from any abutting residential

structure. Mr. Grover stated that the vehicle is parked 50ft from

abutting property lines and 75ft from abutting residential structures.

d. The commercial motor vehicle is not repaired or maintained on the

premises (unless required in order to move the vehicle from the

premises). Mr. Grover stated that this a change from his previous

application. The vehicle’s maintenance and repairs are being done at

Mahoney & Son’s in Brentwood.

e. The commercial motor vehicle is not left idling for more than ten

minutes nor is any equipment associated with the commercial

motor vehicle (e.g., refrigeration units) left on for more than ten

minutes while on the premises. Mr. Grover stated that he does not

leave the vehicle or equipment idling for more than 10 minutes.

f. Horns and/or sirens on the commercial motor vehicle are used only

in emergency situations. Mr. Grover stated that he has no sirens and

uses horns only in emergencies.

g. Advertising on the commercial motor vehicle is not used to violate the

intent to the Town’s signage restrictions. Mr. Grover stated that his

vehicle is lettered but, parked 175ft from the roadway and not visible.

h. Generators or other outdoor equipment are not utilized in conjunction

with the commercial motor vehicle. Mr. Grover stated that there are no

generators or other outdoor equipment used in conjunction with the

vehicle.

i. The commercial motor vehicle will enter and exit the roadway via an

approved driveway. Mr. Grover stated that he consulted with the town

highway department, road agent, and that crushed stone is not

considered permanent, therefore the driveway is approved.

j. The commercial motor vehicle is properly registered and inspected.

Mr. Grover stated that the vehicle is registered, insured and

inspected.

k. Commercial motor vehicles used for the transport of hazardous

materials, as defined by Article II.E.4, are prohibited. Mr. Grover

stated that there is no transport of hazardous materials.

1. The home occupation will not be detrimental to the residential

neighborhood due to noise, traffic, hazards, or other disturbances

and is in keeping with the purpose of this ordinance in promoting

the health, welfare, and safety of the area residents while preserving

the values of the town. Mr. Grover stated that he submitted a dash-cam

video to the Board and there have been no further incidents since the last

hearing.

Mr. Grover stated that he currently has a 22,000 pound truck and if he is denied the special exception this time, he will get rid of that truck and obtain a truck that is no more than 15,000 pounds and will have 6 wheels instead of 10. He also feels that the safety issues have been addressed. Chairman Stafford stated that the Road Agent was asked about the driveway and his response to the Board was that no driveway application had been received and no permit was issued. Mr. Grover mentioned that he did speak with the Road Agent and was told that crushed stone was not considered permanent. Chairman Stafford asked if the Board had any questions regarding the application or the criteria compliance. Walter mentioned that on the application, Mr. Grover wrote that none of the parents showed up at the last hearing. Mr. Grover believes that would have been to address concerns with childrens safety. Walter asks Mr. Grover if he knew why that was the case to which Mr. Grover stated that no one had approached him for a discussion. Walter stated that he has been told that he thinks the neighbors with children are afraid of retribution from Mr. Grover. Chairman Stafford noted that the Board is here to address whether he meets the zoning criteria or not and that the safety pertains to the business. Anything beyond that is out of this Boards scope. Roger noted that he has looked through zoning, trying to see where speed is under our ordinance. Chairman Stafford stated speed isn’t but, safety is. If the vehicle, which is the business in this case, is a safety concern, that would be valid or if the business has a lot of traffic, it would be applicable here but, this is not the case here. If having the business creates any safety risks, it is valid to ask these questions about the business, not an individual. Roger stated if the Board is going to go with that, then they will need to look back and say the focus is on safety. If speed is an issue, then the PD would need to be consulted to find out if the applicant has received any speeding tickets on his street or in the neighborhood to validate that he was speeding. Roger also states that all the Board is doing is convicting him of a crime that he didn’t commit. Chairman Stafford noted that the Board hasn’t voted yet tonight and advised that we go through the process to see if more information is needed or not.

John Russo asks if there is a copy of the contract between the applicant and Mahoney & Sons. Mr. Grover stated a letter will be provided and sent to the Board as he did not feel he needed that information at tonight’s hearing. Chairman Stafford opens the hearing to the abutters. He explains that any questions, clarifications and comments should be addressed to the home occupation as it applies to the zoning criteria that has been discussed and asks if anyone has any questions or comments. Kathy Youzwak of 66 Beechwood Drive addresses the Board. She stated that actions speak louder than words and that the Board has heard reassuring words from Mr. Grover as indicated on his application. At the September hearing, there were at least 6 abutters that voiced particular concerns about safety, health and welfare in the neighborhood. Those that are here tonight continue to be gravely concerned. Also, on public record, there has been police contact from an abutter worried about safety. Mrs. McIntyre, who is a parent of a child who is the same age as Mr. Grover’s daughter, did speak and was in tears about how concerned she was for her child as well as her elderly parents and grandparents. She further states that Mr. Grover’s actions have not reflected the words he has said. The special exception was denied on September 23 and he still continues to run the business from his home, with his truck and trailer coming in and out regularly, which is in violation of the Board’s ruling. Many of the neighborhood residents attended the Selectmen’s meeting on October 31 to ask when enforcement was going to take place. The code enforcement officer had been contacted nearly on a daily basis because the truck and trailer were on the property. It had come to the attention of the abutters that it is town practice not to enforce anything during the appeal process. After that time passed, the town did send a letter, began the fining process and the truck was removed. 68 days after the denial, the trailer, which is defined as a commercial vehicle in Article 2, definition F of the zoning ordinance, continues to be on his property. She then shows the Board a picture that was taken earlier today that shows Mr. Grover’s truck and trailer which he clearly intends on keeping the truck and trailer on his property. If Mr. Grover is granted the special exception, it is a direct violation of criteria 5, which allows one commercial vehicle at most. Mr. Grover continues to run his business , speeding, not stopping at stop signs, making disruptive noises, and being oblivious to any neighborliness. Mr. Grover’s behavior over the past 2 years has been the antithesis of what criteria 6 describes a home occupation should be. Mrs. Youzwak concludes that the abutters are here tonight because of continued worry and frustration. Chairman Stafford confirms that the ruling was made on September 23 and if that is true, the applicant can continue as is until the hearing period is over. The decision that was made the last time and the criteria the Board is looking at today need to be looked at as to what has happened and have there been any violations in that window of time. The truck wasn’t removed from the property. In terms of the safety, there were specific incidents when we had the first hearing, and we need to separate that, forget about the last hearing. Chairman Stafford states that he is only referencing that because at the previous hearing there were specific examples and then asked if there have been any specific examples that happened since the September 23 hearing of a safety concern. Mr. Youzwak stated that she doesn’t believe so but, now is not the season for excavating and is now a challenge to bring that up.

Roger asked how big the trailer is. Mr. Grover stated that he believes it is 7ft wide by 19 ft long. Roger feels that this is not much more than a landscaping trailer, doesn’t believe it is a commercial vehicle and how is that over the gross weight limit. Chairman Stafford stated that the motor vehicle is over the gross weight limit. Mr. Grover clarifies that the code enforcement officer told him that the trailer was ok and he is not prohibited from going to his house to pick it up. Essentially, he has to be dropped off in Brentwood to pick up his truck, go back to his house to hook up the trailer and go about his day. He was also told by code enforcement that the truck cannot be left on the property overnight. He also noted that he is still operating his business. Chairman Stafford stated that clarification is needed from code enforcement regarding the trailer being commercial vs non-commercial. Mr. Grover re-iterated that he was told the trailer was fine as long as the truck is not parked on the property overnight. Chairman Stafford asked if the trailer had a commercial registration, to which Mr. Grover answered, no. Chairman Stafford noted again that this needs clarification by code enforcement.

Donald Morse of 57 Beechwood Drive addresses the Board. He states that he is here to talk about safety. He is afraid to drive out of his driveway without looking down the road. The road coming into Hummingbird Lane, can’t see down the road and if there is a big truck coming down that road, you cannot turn. Mr. Grover has almost forced Mr. Morse off the road on his motorcycle once. He has fear every time he goes out of his driveway, wondering what is coming down the road because Mr. Grover had previously stated that he does “California stops”. Chairman Stafford stated that Mr. Grover sent links to a dash cam video to the Board, which has been reviewed. It showed speed on the dashboard, and stop signs. Mr. Grover did try to provide evidence that at least since September 23, that he was compliant. That is a subjective assessment. Jim Lanza of 78 Far View Drive addresses the Board. He asks if Mr. Grover submitted video to the Board, if Halloween night was included in that. At about 8:15pm on Far View Drive, he observed Mr. Grover speeding down the street with a trailer. He heard a noise, stood at the foot of his driveway, and saw the vehicle towing a truck. As far as Mr. Grover’s comment about parents with kids not being present. The reason for that is because they feel intimidated, and Mr. Lanza noted that a neighbor told him that. Mrs. Youzwak noted that the dash cam is wonderful but, it seems disingenuous that a dash cam that you know is recording when driving, knowing it is being submitted for a hearing to prove you are a good driver. Chairman Stafford stated that it’s the Board’s responsibility to assess all information, weigh accordingly, understand the source and make a decision. Roger noted if he does deliveries and drives down a road, would like to speak on that. He states that he was in that neighborhood last Wednesday morning about 8:15 and a grey Toyota Camry came whipping around Hummingbird Lane with a gentleman driving. Chairman Stafford stops Roger and notes whether things that happened before or not isn’t applicable, it’s what is going to happen going forward. You could say that there is another business in town with the exact truck and trailer and has a business running and because of that, will grant this one. You have to go on specific situations, the application, listening to the abutters not anecdotal experiences. Mr. Lanza emphasized that it’s one thing to stop a Toyota Camry vs a 22,000 pound truck towing a trailer with equipment on it.

Amber-Rose McIntyre of 20 Beechwood Drive addresses the Board. She stated if Mr. Grover is parking the truck elsewhere, what prohibits him from continuing to park it elsewhere. Mr. Grover stated that Mahoney’s is doing this as a courtesy to help him out as he really can’t afford it. Mr. Grover will be speaking with them in the next week or so as his time with them is almost up. He explains that it is a monetary issue and beyond that it adds more time to his day. Mrs. McIntyre notes that most of us have to commute on a daily basis and don’t have the luxury of working from home. Chairman Stafford noted that Mr. Grover stated he has a spring to fall operating business and questioned if he also does plowing. Mr. Grover stated that he does not but, the lot where the vehicle is currently stored gets plowed and it makes it difficult with multiple vehicles parked in the lot. Mrs. McIntyre noted that something that stands out to her is that there are a number of locations within 20 minutes of our homes where you can park commercial vehicles in a rental space and a number of companies do this on a daily basis. She doesn’t understand why this couldn’t be negotiated. As far as community involvement, she asked one of her neighbors who was not present at the last hearing, why she didn’t get involved. The response she got was that the concern was about retaliation where a child was concerned. Mrs. McIntyre mentions this only because she has the benefit of not sending her daughter to Danville Elementary where some of the other families do not. Unfortunately this individual has already had issues where the children are concerned. Mr. Grover admitted to working on Thanksgiving and he flew by her home as she could feel the rumbling. Chairman Stafford noted that Mrs. McIntyre’s point is that she is still seeing speeding with the commercial vehicle. Mr. Grover stated that the truck and trailer were parked at Mahoney’s on Wednesday evening and he never brought the vehicles into the neighborhood on Thursday. In regards to people saying they are scared of retaliation, no one has approached him and nothing has been said to him. He states that his next door neighbor has done some things to push his buttons. He received a letter with highlighted words like “exception denied” and “denied means no” and also stated that multiple neighborhood residents have been doing this. Mr. Grover asks if the neighbors are scared, then why are they doing this. Why call the police when he is shooting a bb gun in his backyard with his daughter, why call the fire department to see if he has a fire permit, and why calling and making false reports about him if they are so scared. He feels that he is being instigated. Chairman Stafford stops Mr. Grover at this point as it is becoming personal. The Board is here about the business and there is not a lot the Board can do about personal issues.

Donald Morse of 57 Beechwood Drive addresses the Board. He states that he was in West Newbury on Thanksgiving day, came home around 5pm and saw Mr. Grover driving his truck and trailer out of his yard. Mrs. Morse questioned an oversize vehicle for the area she lives in as it is not a commercial zone. Chairman Stafford explained that commercial vehicles are not allowed in the residential zone unless the resident comes before the ZBA for a special exception. The zoning ordinance allows, under the special exception, to have a commercial vehicle on the property as part of a home occupation. Chairman Stafford further states that if residents are not happy with the current zoning, to go before the Planning Board to see if it can be changed.

Laurie Taylor of 39 Far View Drive addresses the Board. She noted that there were witnesses present that said they saw Mr. Grover’s vehicle on Thanksgiving day. Mr. Grover stated his vehicle was not there. Her concern is how can we be sure if Mr. Grover is being honest on his application. Chairman Stafford explained that the Board has to take all applications at face value, take the evidence at face value and when there is contradictory information, weigh both sides to make a judgement. This is a 5 member Board that tries to make the best of the situation.

Crystal Daley of 50 Hillside Terrace addresses the Board. She states that she and her husband often walk their dog and grandson in that neighborhood and did walk by Mr. Grover’s property on Thanksgiving. She did not recall seeing Mr. Grover’s vehicle and it was after dark. She and her husband have encountered Mr. Grover many times in the neighborhood and never felt unsafe when driving around. She expressed that if Mr. Grover cannot park his vehicle on the property, he is driving the truck to the home to pick up the trailer and driving away, which he does twice a day, isn’t that putting the vehicle in the neighborhood more. If the truck is parked on the property, it actually lessens the amount of time he is driving around the neighborhood. Brian Daley, also of 50 Hillside Terrace, added that he would like to apologize to Mr. Grover. He states that before the last meeting, one of his neighbors accosted himself and his wife in her vehicle and handed them a flyer to come to the meeting to speak out against him. Mr. Daley didn’t know him at the time. About a week or so after the meeting, he met up with Mr. Grover and asked how the meeting went. He makes a point that if people don’t communicate an issue it won’t get solved. He feels that there is a lot of non-communication going on with Mr. Grover and his neighbors. Mr. Daley also states that he doesn’t live near Mr. Grover but, expressed that he does not feel that he is intimidating.

Mrs. Pajunen of 38 Beechwood Drive had dropped off a note earlier in the day as she was unable to attend the hearing tonight. Chairman Stafford reads the note that stated: “Please vote NO to Mr. Grover’s request for an exception”. She has also highlighted the nuisance provision in the zoning ordinance with a comment that reads: “Mr. Grover has continually disrupted the comfort, peace, enjoyment, health and safety of our neighborhood for over 2 years. Fumes from his truck are smelt on my property every time he arrives and leaves his property. Trash and litter frequently left behind, mud on road created by his truck tires cause a hazard for walkers and cyclists”.

Chairman Stafford reiterates that the Board has to assess this case based on the time frame since the last denial and have to be careful not to factor in things that may have happened 2 years ago. This is a new application and some of the circumstances have changed. There are a few things that need clarification. The email from the highway agent, answered a specific question and asks the Board if he addresses whether the criteria about the driveway being altered was answered. Michelle feels that adding crushed stone doesn’t alter the driveway as it is not permanent. Walter noted that he spoke with Barry Hantman, who told him that any modification to a driveway that impacts the road has to be looked at by code enforcement and may require a driveway permit. Walter feels that the road agent is not familiar with all of the zoning and to which Roger mentions that code enforcement should be. Walter stated that the Board needs clarification on this. Chairman Stafford notes that clarification is needed on the trailer and the comment from code enforcement as to whether the trailer is considered a commercial vehicle or not. Walter states that according to the definition in zoning, it is considered commercial to which Chairman Stafford notes there is a different interpretation from code enforcement. Roger asks what makes the trailer a commercial vehicle in zoning. Chairman Stafford reads the definition in zoning : A self-propelled or towed vehicle used on a class I – V highway in commerce principally to transport passengers or cargo. Jason asked about the weight to which Chairman Stafford noted 10,000 pounds or more gross vehicle weight. Michelle stated that the trailer unloaded would not be considered a commercial vehicle as it wouldn’t weigh 10,000 pounds. Walter questioned if the truck is 10,000 pounds to which Chairman Stafford stated 22,000 pounds. Walter then asks about the truck weight in zoning. Jason stated the weight limit is 15,000 pounds or more.

Jason expressed that it’s too bad that people can’t just get together and work things out. Mr. Grover presented himself in a positive way. Some people see him that way and some others do not and are on opposite sides of the spectrum. He feels that the Board needs to look at this in black and white and feels there are 2 choices here: 1. Reduce the size of the truck to under 15,000 pounds or 2. Commute to the truck every day. He noted that Crystal Daley mentioned that Mr. Grover going back and forth would cause more traffic. It is not up to the ZBA to enforce the laws of the road, that would be a police matter. This Board is here to address those variances/conditions within the lot. He noted one thing that stands out and asks about adjusting the weight allowance so that he is not going back and forth and makes just one trip a day or, go to Brentwood to pick up the truck and go back and forth, or get a truck that is under 15,000 pounds. Jason feels that is where the Board is at right now, and asks if there is anything else that stands out.

Walter mentions the focus on the safety issue. As Chairman Stafford stated, the Board doesn’t have to consider anything since the last decision was made, however, this is a quasi-judicial Board, like a court. He stated that there is a packet full of issues with the police and fire departments and his point is that prior issues of safety need to be considered. Chairman Stafford asks the Board if they are done with the public portion of the hearing. Lisa Pajunen of 38 Beechwood Drive arrives at the hearing and addresses the Board. She states she had been watching the hearing and noted that a question was brought up as to whether Mr. Grover’s truck was on the property on Thanksgiving She presented a photograph dated 11/24/2022 to the Board. She stated she was taking a walk and thought it would be handy to have a photo of the vehicle. She also stated that she has video of Mr. Grover in a machine, going back and forth rather frantically with his daughter in front of it. She was concerned because there were people walking by and she thought Mr. Grover may not see them. She noted that she saw Mr. Grover’s daughter step back and felt she may have been afraid that he was going to run into her. Mrs. Pajunen requests to put this forward as evidence. Chairman Stafford asks if the business Mr. Grover is running with his vehicle is a safety concern to which Mrs. Pajunen responded, “absolutely.” Mrs. Pajunen then asks if Mr. Grover would like to see the photo on camera and proceeds to show him. Mr. Grover thanked her for her card. Chairman Stafford then interrupts and stated when speaking, to address him and not each other. Mrs. Pajunen explains that she was just trying to be friendly, sending him a note thanking him for being understanding as this is a residential neighborhood and just trying to be neighborly. She then leaves the building. Chairman Stafford mentions that if there is no new information, he would like to close the hearing to the public. Roger asks if anyone had measured the driveway to see if it is over 18ft wide. In Article IV, section 7 it states: parking can be 18ft 6 degree angle parking for 2 cars. Chairman Stafford notes that the question is when the lot is created with a plan including a driveway on it and a permit issued initially, was something changed since then. Is a new permit needed. There was previous discussion regarding if gravel or crushed stone is a permanent structure. Michelle questioned if the safety issue was voted on at the last meeting. Chairman Stafford noted that one of the reasons for the denial was for business safety, not personal safety. At this time the public part of the hearing is closed, and the deliberation phase begins. All 6 criteria were discussed and the voting is as follows:

Criteria 1: 5 – 0 Vote in favor

Criteria 2: 5 – 0 Vote in favor

Criteria 3: 5 – 0 Vote in favor

Criteria 4: 5 – 0 Vote in favor

Criteria 5: a. 5 – 0 Vote in favor

b. 5 – 0 Vote in favor

c. 5 – 0 Vote in favor

d. The Board needs evidence of an agreement with Mahoney & Sons

e. 5 – 0 Vote in favor

f. 5 – 0 Vote in favor

g. 5 – 0 Vote in favor

h. 5 – 0 Vote in favor

i. The Board needs input from the road agent regarding whether or not gravel or

crushed stone is a permanent structure, breaks the curb, and widens the driveway

The Board also needs to know if this requires a permit. A clear answer is needed

From the road agent.

j. 5 – 0 Vote in favor

k. 5 – 0 Vote in favor

Criteria 6: The Board feels this is subjective regarding safety concerns. There was dash cam

evidence submitted from the applicant, abutter evidence and some testimony as

to what happened prior to the denial which was reviewed. This has to apply to the

business, not the person and will need further assessment.

Chairman Stafford notes not to consider any issues prior to the previous denial. Walter noted that a court would look at this and has to consider prior issues. Chairman Stafford explains that the Board has to determine if the applicant adheres to the criteria today. Roger stated that the Board cannot play he said/she said, need to see proof. Walter again mentioned that a judge would look at prior issues. Roger stated that there has been no evidence of speeding and that would be a police violation. Jason stated that the Board will need clarification on the following: driveway, road agent comments, and code enforcement. All members agree with the exception of Roger. Outstanding issues that need clarification are as follows: Maintenance on the vehicle, alteration of the driveway, subjective safety issue, and if there were any police violations after September 23. Jason **made** and John 2nd a **motion to continue the hearing until December 16 at 6:30pm.** All in favor, **motion carries with a vote of 5 – 0.** Chairman Stafford noted that at the last hearing the special exception was denied on 3 criteria which were the driveway, safety and maintenance.

David Knight approaches the table. He asks if the Board follows the recommendations/opinions of the code enforcement officer or the ordinance. The consensus of the Board is that the Zoning Ordinance is followed.

Roger **made** and Jason 2nd a **motion to adourn.** All in favor, **motion carries with a vote of 5 – 0.**

**Meeting adjourned at 9:30pm.** This hearing has been continued to Friday, December 16 at 6:30pm at the Town Hall.

Respectfully,

Gail L Turilli