

Zoning Board of Appeals – Public Hearing

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Tuesday February 23rd, 2021 7:00 p.m.

Members Present: Chair David Lavenburg, Jane Mantolesky, Steve Bennett, Jim Tourtelotte, Marissa Komack, Jerry Plumb, Ellen Freyman, Suzanne White.

Members Absent: Mike Michon.

Applicants Present: Dr. David Marinelli, Jeffrey and Jessica Guerra, Jonathan David, Patricia Larivee, Larry Goldberg.

The **ZBA Hearing** was called to order at 7:04 p.m. by Chair David Lavenburg, who reminded the public of the reasons for virtual meeting settings as well as the protocols to follow during this hearing.

Petition #2020-16 – Continuation / Appeal of Building Commissioner’s Decision on matter involving neighbor at 108 Eton Rd., Jeffrey & Mary Meehan:

Mr. Bennett has been in communications with both the applicant, Mr. Jeffrey Meehan, and his neighbors, Mr. & Mrs. Lyon; both parties wish to continue the matter at a future hearing to be scheduled for late April or early May in an effort to provide ample time for the ground to thaw and for the parties to explore alternatives.

Dave Lavenburg made a motion, and was seconded by Steve Bennett, to continue the hearing on this petition to a future date in late April or early May at which time the neighbors’ stance will be reviewed; notice will be duly provided to all parties connected with this matter. Roll call vote - Mr. Lavenburg: yes; Ms. Freyman: yes; Mr. Bennet: yes; Ms. Komack: yes; Ms. Mantolesky: yes. All in favor, motion passed 5-0.

Petition #2021-2 – Appeal of Building Commissioner’s Decision for 144 Lawnwood Ave., Jeffrey Guerra.

Mr. Guerra is seeking an appeal from a recent Building Commissioner’s decision that prevents him from parking in his uncovered driveway a municipal vehicle assigned to him and owned by his employer, the City of Northampton’s Department of Public Works (DPW). Mr. Guerra has been part of said organization for the last two years and, aside from his regular work hours and in an effort to provide additional financial support to his family, he is part of that department’s “first response call system” in which scheduled employees are required to arrive at a location in need within one hour; issues associated with these calls are, but are not limited to, snow removal, black ice, water main breaks, removal of animal cadavers, and other situations that may jeopardize the health and safety of Northampton residents. He provided the following information:

1. The vehicle assigned to him has changed in the last year as his employer has adjusted the work environment during a pandemic, but nowadays it is a Ford F350 truck with vinyl lettering on the sides that indicate his employer’s name and has some visible tools.
2. Per the current schedule rotation, the vehicle is expected to be in his driveway overnight for one week every nine weeks; during this time his personal vehicle would remain at his employer’s depot thus keeping the number of vehicles on his property at 2. The rotating schedule runs according to the number of employees; should there be a change in this number, the time span between Mr. Guerra’s assigned weeks may decrease or increase.
3. When stay-at-home orders began in March 2020 and safety protocols were still being developed at his work place, Mr. Guerra was forced to have the municipal vehicle with him on multiple occasions, which he acknowledged may not have been in compliance with the town’s by-law; he would temporarily park it on the street to accommodate his family’s needs at homecoming, and later would move it into his driveway, which can accommodate two vehicles without obstructing the sidewalk. His garage’s size is unable to accommodate his large vehicle and the size of his lot prevents him from seeking site alterations that would help conceal the vehicle in question.
4. It is a Northampton DPW requirement that employees arrive in a clearly marked vehicle to the site in distress, hence the assignment of vehicles to employees for immediate access. Maintaining all municipal vehicles in the employer’s depot, thus forcing employees to drive to the depot site to pick up a municipal vehicle prior to arriving at the site in need, according to Mr. Guerra, likely delays the response time and raises an issue with vehicle key accessibility should the call be placed after office hours. His commute between his home and his work site is roughly 30 minutes in length.

Comments from the public in favor of or against the petition:

- Larry Goldberg (159 Redfern Dr.) is a town resident opposed to this application and considers the enforcement procedures pertaining to commercial vehicles bylaws as flawed.
- Patricia Larivee (141 Lawnwood Ave.) lives directly across from the applicant and pointed to Mr. Guerra's vehicle being on the premises on a continuous basis during the summer as well as other commercial vehicles from neighbors unrelated to this matter. She was concerned over the duration of Mr. Guerra's vehicle in the neighborhood due to aesthetics and traffic flow on the narrow street. However, she does not object to the vehicle being parked in Mr. Guerra's driveway if the schedule is limited for one week every nine weeks.
- Jonathan David (194 Bliss Rd) is a town resident opposed to this application and also considers the enforcement procedures pertaining to commercial vehicles bylaws as flawed and unjust. Leading up to the filing of this appeal, it was his understanding that Mr. Guerra had not been fined for the overnight parking of the municipal vehicle, which is a contrasting experience to that of Mr. David who remains in an ongoing litigation with the Town of Longmeadow over commercial vehicle violations. He strongly encourages the board to address this issue, especially when determining what constitutes an emergency vehicle, as granting this appeal would set a precedent that could further intensify this already-passionate topic among residents.

As part of the information to consider in this petition, board members discussed the case "2019-17 / 329 Frank Smith Road, Mr. Benito Rocca", in which a decision was granted to allow the parking of a Columbia Gas emergency response truck in said property; it was noted that key differences between the cases were that Mr. Rocca's was required by his employer to be available to respond to local emergencies and the property's driveway was modified in an effort to partially conceal the vehicle. Additionally, other aspects of Mr. Guerra's situation were analyzed:

- a) Whether every effort has been made to discuss the alternatives with Northampton's DPW, such as keeping the truck on the Northampton depot and facilitating Mr. Guerra's access to it by means of an additional key, an assigned unobstructed parking space or other options without adversely impacting the overall response time frame of one hour.
- b) Whether the calls Mr. Guerra must address amount to the definition of a "first response" and whether there is personnel backup available should Mr. Guerra's commute impede him from reaching a site on time.
- c) Whether the vehicle constitutes a commercial vehicle or an emergency vehicle; the latter would be exempt from the requirements of the town's zoning by-law.
- d) Whether bringing a vehicle owned by one municipality into the employee's home in a different municipality with legislation that targets the vehicles in question, should be a burden to be carried by the employee's municipality.

In an effort to ensure all possible alternatives have been explored that both meet the needs of Northampton's infrastructure without impacting Mr. Guerra's work as well as maintaining the expectation of Longmeadow residents' adherence to by-laws related to commercial vehicles overnight parking, Chair Dave Lavenburg made a motion, and was seconded by Ellen Freyman, to continue the hearing on this petition to a future date in March to allow time for the applicant and his employer to find viable solutions. Roll call vote: Mr. Lavenburg: yes; Ms. Freyman: yes; Mr. Bennet: yes; Ms. Komack: yes; Ms. Mantolesky: yes. All in favor, motion passed 5-0.

Meeting Minutes Review:

1. January 19th, 2021 Public Hearing: Mr. Lavenburg made a motion, and was seconded by Ms. Freyman, to approve the minutes as presented. Roll call vote - Mr. Lavenburg: yes; Ms. Freyman: yes; Mr. Bennet: yes; Mr. Tourtelotte: yes; Ms. Komack: yes.

The meeting was adjourned at 8:39 pm.

Respectfully submitted,

Bianca Damiano