

**Zoning Board of Appeals
Public Hearing Meeting Minutes January 7th, 2021
Norma Drummer Room Zoom Meeting
111 Bungay Road 7:00 p.m.**

Members Present: R. Demko, J. Hanowitz, P. Whilhemy, P. Chapla, B. Nerone

Others Present: Kevin Stanis, J. Judson, M. Marganski, A. Drugonis, Joe Waskewicz, Attorney J. Marini

1. Call to Order

The meeting was called to order by R. Demko at 7:04 p.m.

2. Seating of Alternates

There were no alternates.

3. 111 Bungay Road-Appeal of Zoning Enforcement Action

M. Marganski states that the property is a single family residence that consists of 3.37 acres located within the R-40 district. Early September the office had taken a complaint in regards to the operation of a landscaping business within a residential zone. Under current zoning regulations for permitted uses (5.2) the operation of a landscaping use is prohibited. K. Stanis confirmed that he is not a landscaping company, but a tree service. He states that it has been in their family this way for almost 200 years. R. Demko asks if K. Stanis has any other farm equipment on the property. K. Stanis confirms he has tractors and other machines (farm equipment).

P. Whilhemy states that the original complaint is about noise on the property. He states that M. Marganski went out and investigated the complaint and upon review says there was a violation of the R-40 zone. M. Marganski noted commercial trucks with lettering and a business name were found on the property as well as wood chippers, bucket trucks, etc. confirming that that's where the cease and desist originated from. P. Whilhemy asks if the noise can be mitigated in any way. K. Stanis states the trucks are started around 7:10 each morning and that they leave the property for the day.

P. Whilhemy states the regulations in question are operating a business in an R-40 zone. R. Demko questions K. Stanis about the time when the trucks start up and asks what time our noise ordinance in town is. It is confirmed that the time is 6 a.m. and R. Demko states that K. Stanis is within the noise ordinance time(s).

J. Hanewicz says noise is the base complaint, but comments on the fact that it seems there is a tree service being operated out of the address in question. He says he understands the hardship of the family that is appealing the ZEA. He too confirms that a business is not zoned to run out of an R-40 zone. R. Demko says they need to take a closer look at what exactly the applicant is trying to do. They don't want to tell small business owners that they can't store equipment at their house.

J. Hanewicz asks K. Stanis if he is performing any tree services on the actual property. K. Stanis confirms that he is not. J. Hanewicz also states that the tree business is new and has not been there for years. R. Demko does a recap, and states that the applicant is only storing the vehicles on the property and that K. Stanis is starting them in the morning, leaving for the day, and then returning in the evening. R. Demko defers the issue to Attorney Marini to see if they should uphold the citation or if they should grant the application. Attorney Marini states that it's about the violation notice and whether or not the violation notice should stand. There was a discussion on prior use and stated that further questions need to be answered by the applicant.

P. Whilhemy asks if K. Stanis' business is being operated out of the property. R. Demko questions if K. Stanis has clientele and if he's getting paid. K. Stanis states that he sometimes gets paid. K. Stanis is asked to elaborate. K. Stanis states that he does storm damage clean up and that it's solely on him and that he does not get paid. Other jobs he'll go out and get paid. Attorney Marini asks K. Stanis to elaborate on the fact of whether or not this commercial use has pre-existed prior to zoning regulations. K. Stanis has confirmed that nothing has changed and that the name KES has been around for approximately 13 years.

R. Demko asks if anyone else wants to provide insight. J. Waskewicz states that he is related to K. Stanis and that he and his father made the noise complaint. J. Waskewicz states that he hears the trucks start up every morning around 1:00 a.m. and then return around 1:00 p.m. R. Demko questions the fact on why this topic has come before the ZBA Board. He says the application is to overturn the cease and desist based on a noise complaint stemming from a family member who lives and works next door. B. Nerone says it's non-confirming prior use. B. Nerone states that they narrowed it down to a noise complaint and that the issue is less complex than originally thought.

P. Whilhemy asks for M. Marganski to weigh in on the topic. M. Marganski says from an enforcement standpoint the original complaint came in as a business operating in a residential zone in September. Then, in October, a noise complaint came in. M. Marganski investigated both and stated that the ruling is ultimately up to the board. P. Whilhemy asks if K. Stanis had complied with the cease and desist that was issued to him on October 13th. K. Stanis replies no. K Stanis states that none of his paperwork showed a cease and desist so he couldn't abide by something he never received. K. Stanis stated that it was a violation and correction that he appealed.

Public Comment

Joe Waskewicz states that he wants regulations stating that he doesn't want the trucks to start up at 1:00 a.m.

The public hearing was closed at 7:59 p.m.

Respectfully,


Colleen Kochan