



COMMONWEALTH OF MASSACHUSETTS

# **Town of Southwick**

## **Board of Appeals**

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## **Board of Appeals**

### **Meeting Minutes December 10, 2018**

**Attendees:** Thomas Stapleton, Chris Mastroianni and Michael Parent and David Methe

**Absent:** Paul Grégoire, Chairman and William Lis

**7:05 PM** Mr. Stapleton opened the meeting. The Meeting Minutes were reviewed and a motion was made to accept by Michael Parent and Chris Mastroianni second, all were in favor. The Board reviewed and discussed all new mail and new applications.

#### **7:15 PM 2 Klaus Anderson Road**

Mr. Stapleton read the public notice and the letter to request a hearing with the Board from Lois Davis. A letter from the Building Inspector was also read into record. The Board determined Chapter 185-37 is the actual bylaw number not the one stated in the Inspector's letter. Robert Davis and Nicholas Canon of 2 Klaus Anderson Road stated the reason they need to park the vehicle at the property. Mr. Davis stated that it is an active farm and business therefore the truck is used on and around the property. Mr. Methe asked the primary use of the truck and Mr. Canon uses it to haul during the week for his work and on the weekend for the farm. Mr. Stapleton asked what it is rated for and was advised 80,000 lb. It was found that the bylaw sets a standard maximum at 16,000 lbs. Mr. Canon advised that if you drive around town there are many large trucks parked on various properties throughout the town. This property is located in an R40 zone. Mr. Davis states the truck is visible if you look directly down the driveway but it is screened from the sides. Mr. Mastroianni asked if truck is parked overnight during the week and also on the weekends and Mr. Canon advised he does park there seven days a week.

Mr. Methe asked what the hardship is for this variance. Mr. Canon advised that farming is not profitable and the trailer is needed in order to avoid hiring transportation of farm products. Mr. Parent read the conditions of a hardship and what criteria the Board needs to review and follow in order to make a decision.

Kerry and Christine Granfield of 22 Feeding Hills Road are in favor of Mr. Canon parking his truck on the property. They support that the owner is trying to make a living and the truck is necessary to his way of life. Christine Granfield states that all she see's is him backing in and it never causes any problems.

Their property borders this property on the back and side. The next neighbor is a good distance away from where this vehicle is parked. Mr. Stapleton advised that he knows this is an inconvenience but that when you do move to this town you agree to follow the town laws. Brian Hildebrandt signed a letter which Mr. Canon read into record in support of the truck being parked there. Mr. Stapleton asked how far back this vehicle is parked and Mr. Davis advises it is tucked in fairly far back. Mr. Davis stated he would have financial difficulties if this truck could not be used for farm use.

Police Chief spoke with the Building Inspector and asked if it was a safety issue and he advised it was not it was strictly a bylaw violation. The Chief has looked into any complaints and could find none. Mr. Parent stated a lot of business or uses are grandfathered in and may not comply in the current times. Mr. Methe asked what time of day does it go out and in at about 4:45 PM.

Ms. Canon has seen no issues with the amount of vehicles she advises that this is a farming community that utilizes trucks for that purpose. She states that maybe this bylaw needs to be changed. Mr. Mastroianni advises farming is allowed in R40 zone. Mr. Stapleton stated that according to the bylaw it is prohibited. He believes that the truck is as camouflaged as it can get and it is not going through residential areas and causing any issues. Mr. David Massai stated that he abuts the property and wants to know what the hardship is. Mr. Massai believes that this vehicle is not being used for the farm and that it is over the GVW allowed by the town. Mr. Massai states that behind the Notch there are parking areas for trucks that can be rented. Mr. Massai states the hours of operation of when he is leaving is not an issue but coming home at 3:00 – 3:30 pm the buses are dropping off children. Also the driveway is not asphalt and mud is being deposited onto the roadways when the truck pulls out and the truck is blocking lanes when he backs in. Mr. Massai states he has never seen it used for farm use. No hardship because the vehicle is not owned by Mr. Canon. Mr. Massai also states the town was out repairing a pipe that was broken by the vehicle. Mr. Davis advises that last November he asked the Town to come out and fix a bent pipe and they were unable. The Town came out last week and was finally able to fix the bent pipe and Mr. Davis believes that the pipe was hit by a snowplow.

Mr. Davis asked Mr. Massai if he has an issue with Mr. Canon. He stated “no, I have never met him” but Mr. Canon states there was a recent issue regarding a dog attack and feels this is retaliation for that incident. Mr. Stapleton asked if Mr. Canon has looked into parking fees at the Notch and it was stated that there is a long waiting list. Mr. Mastroianni asked what the fees are and was advised several hundred a month. Mr. Granfield states it is alright until someone complains. Mr. Canon presented pictures of other properties that have tractor trailers parked on them. Mr Methe read the 185-32 section trailers and it was determined that may apply to rvs but Mr. Parent says it excludes mobile homes. Mr. Parent stated that it is being used for business purposes.

The Board discussed the definition, by the Town, of what a trailer/truck is. Mr. Parent asked what is unique about your situation that allows us to allow the use. Mr. Methe is still struggling with the definition of a trailer. He points out that the paragraph also specifically talks about load and unloading a trailer.

Mr. Methe stated maybe this should be continued until Town Counsel can be consulted. Mr. Mastroianni and Mr. Stapleton feel a Continuation should be considered since the definitions are unclear. Ms. Canon states this is not a home business no business is being conducted. Mr. Canon states that it clearly states you can't have a tractor trailer school.

Chapter 185-32 is the section Mr. Stapleton feels relates the most. The Board states if the Chapter is incorrect in the letter then that is the Building Inspector's mistake. Mr. Mastroianni feels that the resident is not in violation of the bylaw listed in letter. The Board feels that the resident does not violate the bylaw as listed in letter. Mr. Methe advises that we should continue this in order to clarify what the Building Inspector means by the letter. Mr. Canon signed a continuation to January 14<sup>th</sup>, 2019 Mr. Mastroianni made a motion to continue and Mr. Parent second all in favor.

### **New Business**

An application for 27 Depot Street was received. The applicant wants to put an addition on the home.

**8:31 PM** Mr. Stapleton made a motion to close the meeting and Mr. Mastroianni second, all were in favor.

Respectfully Submitted,

Paul Grégoire  
Chairman