



The *Zoning Board of Appeals* of the Town of Schaghticoke met at the Town Hall, 290 Northline Drive, Melrose NY 12121 on Thursday, February 2, 2023.

REGULAR MEETING

Chairman Ed McDonough opened the meeting at 7:01 p.m. with roll call.

Present:

Ed McDonough, Chairman
Rich Geddis
Kristin Griswold
Lettie Saheim
Jason Shover

Absent:

None

Kristin Pratt, Deputy Town Attorney, and Elizabeth Hale, Clerk, were present.

REGULAR MEETING

The Board reviewed the minutes of the January 5, 2023 meeting. Ed McDonough made a motion to accept the minutes as submitted. Jay Shover seconded.

Ayes: McDonough, Griswold, Shover

Nays: None

Abstention: Saheim, Geddis

Chairman McDonough stated that he received a phone call from Jamie Falzo Vandenburg, R.N., who resides at 15 Sherman Hill Rd., on January 10, 2023. Ms. Vandenburg is interested in opening a dental business exclusively for teeth whitening to be located in an RA district at her home, 15 Sherman Hill Road. Following review of the Zoning Code and consultation with Deputy Attorney Pratt, Mr. McDonough informed Ms. Vandenburg that there would be no need to appear before the Zoning Board of Appeals or the Planning Board, as the current proposed business met all the requirements of a home occupation, permitted in an RA district within the Zoning Code. Ms. Vandenburg was advised to see the Building Inspector, Scott Frisino, to proceed with the project.

Ed McDonough made a motion to suspend the regular meeting and reconvene the public hearing, initially opened at the previous meeting of January 5, 2023, for an interpretation of the Town Zoning Law pursuant to the referral by the Town Planning

Board related to the operations by Al's Towing and Automotive located at 751 NYS Route 40.

PUBLIC HEARING

Interpretation, Al's Towing and Automotive, Reconvene

7:05 P.M. Al's Towing and Motor Vehicle Repair Station (Tax Map #51.3-1-6).

Charles Terry III appeared to represent the applicant, Todd Papielion. Mr. Terry stated that Mr. Papielion was ill and could not attend the hearing for consideration of the referral by the Town of Schaghticoke Planning Board for a Zoning Interpretation pursuant to Town Zoning Law Section XI[B][1][a] related to property located at 751 New York State Route 40 in the Town of Schaghticoke, located in the Hamlet District. The purpose of the interpretation is to determine whether the potential Applicant, Al's Towing and Automotive falls within the provisions of "Motor Vehicle and other junkyards" under Section VI[B][19] of the Zoning Law or "Motor Vehicle/ Automotive Service Station/Motor Vehicle Repair" under section VI[B][15] of the Zoning Law. Definitions for both are located in Section XIII of the Zoning Law. The property was owned by Salvatore Melite. Mr. Melite recently died; it is believed that his son is the executor of the estate.

The public hearing for the interpretation opened on January 5, 2023, and was continued to February 2, 2023 at 7:05 P.M.

Chairman McDonough addressed those present and stated that the ZBA's one function, responsibility, and reason to hold the public hearing was to interpret whether Al's Towing and Automotive is defined as a motor vehicle junkyard or as a motor vehicle service station/repair facility under the Zoning Law of the Town of Schaghticoke. The Zoning Code does not permit junkyards in the Hamlet District.

Mr. McDonough noted that he was in possession of a letter (dated January 31, 2023), addressing the issue, from the Code Enforcement Officer, Brian Davidson. Mr.

McDonough read the letter aloud. Mr. Davidson stated that he visited the site at 751 NYS Route 40 in August, September, and January 2023. A Notice of Violation was issued due to both the blocking of NYS Route 40 and the operation of a junkyard. At the most recent visit, Mr. Davidson noted that he was unable to find a parking spot. While at the site, Mr. Davidson stated that he found a flatbed and tow truck, 7 vehicles with license plates, 5 without plates, automotive parts and a 21' car carry truck. In addition, Mr. Davidson noted that he has never observed any indication that any vehicles were being repaired or serviced at the site; however, he has seen the loading and unloading of vehicles from the 21' tow truck, the loading of automotive parts and the dismantling of vehicles.

Atty. Pratt sent a copy of Mr. Davidson's correspondence via the post and e-mail to Todd Papielion.

Initially, there were approximately twelve people in attendance at the public hearing.

Mr. Terry submitted bank records to Deputy Atty. Pratt and to the Board. Chairman McDonough asked for additional documentation to show that auto repair and/or maintenance was currently taking place. Mr. Terry replied that Al's Towing was not a junkyard and said that it was like going uphill on ice skates, that the harsh reality was that people were just fighting to survive. He repeated that a junkyard was not being operated, but 'they' didn't have sufficient funds to run an auto repair business. He added that the Al's Towing bank account was depleted and that the neighbors' harassment was a deterrent to prospective customers. In addition, Mr. Terry pointed out that in spite of the death of Mr. Melite, he had the lease, left it behind on the desk with other "stuff" and forgot to bring it with him. He asked the Board to "think about where he's at". In addition, Mr. Terry stated that he has no problem with parking, that "people" were taking pictures on the property and that the workers were "embarrassed" from the presence of the neighbors on the site.

Mr. McDonough asked if the lease was binding and Mr. Terry replied that, yes, it was a binding contract, but that "we can't use it as an auto repair business" (cannot operate as an auto repair business).

Mr. McDonough stated that the ZBA, to date, has received no supporting documentation that the business is being operated as an auto maintenance or repair facility. Documentation was requested during the December and January meetings and the ZBA has sent two letters to Al's Towing requesting that records be submitted identifying what type of business is being operated at the property. No records were submitted to date, demonstrating that motor vehicle repairs have been completed; the lease has not been submitted. It was emphasized that if the Board considered the business an auto repair business, the applicant would then be referred to the Planning Board to apply for a Special Use Permit and Site Plan Review and would be required to meet the PB's standards.

Mr. McDonough stated that the ZBA has received comments from the neighboring residents that cars are being stripped at the business. In addition, the letter received from the Code Enforcement Officer indicated that an auto repair business at the site did not appear to be in operation.

Kristin Pratt stated that the Board has requested that Al's Towing submit a narrative explaining business operations as well as records supporting representatives' statements that automotive maintenance services are being performed at the property. Records could include: customer lists, invoices for work completed, records demonstrating purchase of materials needed to complete work, etc.

Jay Shover added that he understood that the current situation must be stressful; however, he explained that the Town has a Zoning Law with standards that must be met and that the Board must determine whether the company fits within the permitted

uses within the Zoning Law. Mr. Shover read the definition of motor vehicle junkyard from the Zoning Law. He added that since the 'business' was not yet registered with the Department of Motor Vehicles, he understood that repair work on automobiles was limited, and that only basic maintenance was permitted. Mr. Shover pointed out that it looks like a junkyard and that the Code Enforcement Officer, through his letter (read earlier during the meeting) supported Mr. Shover's opinion. Mr. Shover stated that the Board needed proof of business activity, such as invoices, customer confirmations, etc. Mr. Terry replied that they are "trying to survive and not get into trouble."

It was stated that the legal owner or custodian of the property at 1755 NYS Route 40 is unknown and that the footprint of the property is not 4 acres, as originally presented by the late owner's son, but instead measures .47 acres.

There was an outburst among the people present -both those who supported the company and the neighboring residents, each group complaining about being harassed by the other party.

Todd Papielion, the company owner, later appeared twice during the public hearing at approximately at 7:25 p.m., bursting through the doors to the meeting room. Mr. Papielion raised his voice while stating that he was closed down and that he was "sent" to get a C.O. He stated 'You don't know what I am capable of' and "You don't know my history". He added, during his abrupt departure, that the shop would be converted to a hobby shop or a motorcycle shop.

A man, affiliated with Al's Towing, stated that he did not want to be disrespectful to anyone and that those working at Al's Towing are trying to do everything they can. He encouraged everyone to put pettiness aside. In addition, he asked what the difference is between the mess at Bonnier's or TintsByTy (not clear which business/location, as he pointed to a direction) and Al's Towing.

Jennifer Grogan, a resident present, stated that "they" felt threatened. She distributed an image of a van and truck on the property and claimed that the business is a tow yard.

LuAnn Broderick presented images of a sign on a bumper and a business card, advertising Al's Towing and Automotive, as "We Buy Junk Cars", "We Pay Top Dollar for Junk Cars", "Used tires for Sale, Call for Your Size."

Chairman Mc Donough asked those at the meeting if there was any new information to submit.

Residents present called 911 and the Rensselaer County Sheriff's Department responded, Deputy Loeper (Badge 2033) and Deputy Pasinello (Badge 2043) responded. All representatives of the company departed the meeting before the hearing concluded. Those residents present that expressed concerns related to the company stated that they feel nervous, threatened and fear violence. One neighbor stated that he was searching his property for his property markers when he was threatened and targeted to be attacked by three men with a 2 X 4.

Both Officers stated that they would speak with Todd Papielion following a brief consultation with the neighboring residents who were present at the meeting. Board member Rich Geddis stated that he passes Al's Towing a number of times a week and has observed salvage as well as tow trucks going in and out of the property. Chairman McDonough stated that the Board made multiple requests for documentation denoting that Al's Towing operates as an auto repair and/or maintenance service. No such proof was received and the company did not request additional time to submit such records; therefore, Chairman McDonough made a motion to adopt a resolution determining that Al's Towing falls within the definition of a *motor vehicle junk yard* under Section XIII of the Zoning Law and its operations are consistent with the definition of *junk yard* under Town Code §78-2. The motion was seconded by Lettie Saheim.

Ayes: McDonough, Geddis, Griswold, Saheim, Shover

Nays: None

Ed McDonough made a motion to adjourn the meeting at 8:04 pm. Rich Geddis seconded.

Ayes: McDonough, Geddis, Griswold, Saheim, Shover

Nays: None

Abbreviations

NYS – New York State

PB – Planning Board

ZBA – Zoning Board of Appeals

Respectfully submitted,

date: Mar. 02, 2023



Elizabeth Hale, Clerk

Zoning Board of Appeals, Town of Schaghticoke