

**TOWN OF SHEFFIELD  
ZONING BOARD OF APPEALS  
DECEMBER 7, 2022  
TOWN HALL – SECOND FLOOR MEETING ROOM  
7:00 PM**

Board Members Present: Eric Carlson, Chairman  
Allison Lassoe  
Nicole Chase  
Catherine Miller  
Pat Levine

Others Present: Members of the Public-Sign in Sheet Attached

7:00 PM – Public Hearing – Special Permit and Variance Application filed by Anchor Concrete/Oldcastle Retail, Inc., 49 Clayton Road, for expansion of a pre-existing, non-conforming use and to allow building height to exceed 35 feet.

Chairman Carlson opened the hearing and read the hearing notice.

Bob Fournier from SK Design presented the project. He stated that the representative from Anchor Concrete was ill and could not attend the hearing. He submitted a map to use for reference location for the project, and explained that the property is partly in MA and partly in CT. The project is for construction of a new silo for increased productivity. He gave an overview of the business operation. In 2014 the Zoning Board of Appeals approved the construction of a silo of similar height and similar location as the new proposed silo, so he used the prior application as a model for this application. He also stated that there would be no additional traffic, noise, lighting, storm water or refuse from this project. The Variance is requested based on the uniqueness of the property.

C. Miller asked if any permits had been filed with the Department of Environmental Protection of Massachusetts. B. Fournier replied that he is not aware that any permits are required.

P. Levine stated that she understands that this project will increase production but does not understand the safety aspect. B Fournier stated that this will increase productivity and efficiency. P. Levine asked if this would create a 2 to 1 mixing of product. C. Miller asked what the hours of operations were and stated that noise can be heard beginning at 6 am and can be heard in Canaan and Ashley Falls. Mr. Fournier stated that he cannot answer questions regarding the business operations.

Chairman Carlson suggested that this hearing be continued to allow the representative from Anchor to be present to give explanations and answer questions.

C. Miller and P. Levine stated that they would like to allow public comments tonight. Members of the public from Canaan CT stated their concerns with the application. Especially regarding notification of the hearing. Notification requirements were discussed. The other concerns were noise and dust. Mr. Fournier stated that Anchor has taken several measures to control the dust.

C. Miller moved to continue the hearing to January 17, 2023 at 7 pm, seconded by P. Levine. The motion carried unanimously.

It was the consensus of the Board to seek Counsel's opinion on their responsibility to Canaan CT residents.

7:30 PM - Public Hearing – Administrative Appeal filed by John Muller regarding 1515 Boardman Street. Chairman Carlson opened the hearing and read the hearing notice.

Jesse Belcher-Timme attorney for Mr. Muller stated that there has been continued activity at 1515 Boardman Street and that he sent a letter to the Zoning Enforcement Officer (ZEO), on September 28, 2022, asking that the prior Zoning Board decision be enforced. The ZEO responded, on October 6, 2022, that the Zoning Board Decision dated August 4, 2022 upheld his original decision that these uses are allowed to occur at 1515 Boardman Street.

Attorney McCormick responded to each of the four complaints listed in the appeal as follows:  
Continued Storage of Salt, Sand and Gravel – no new material has been brought in and Wilkinson's are in the process of relocating the shed and materials on 1515 Boardman Street to 1551 Boardman Street. A surveyor was hired to clearly mark the property lines and Mr. Muller called the police on the surveyor, which has caused further delays. There has been increased activity because of the attempt to move the shed and materials.

Storage of Commercial Vehicles and Heavy Machinery belonging to Joe Wilkinson Excavating, Inc. – This claim is false, no commercial vehicles belonging to Wilkinson Excavating are stored at 1515 Boardman Street. Kevin Wilkinson lives at 1515 Boardman Street and has a work vehicle that may be parked at his house. Other employees or other contractors may stop at the property. Chairman Carlson stated that anyone has a right to visit and just because a truck may be parked there it does not mean that there is commercial activity taking place and that the Zoning Enforcement Officer cannot be called every time there is a truck in the driveway.

Mixing of Salt, Sand and Gravel for Commercial Use – No mixing of salt, sand or gravel is taking place on this property.

Use of Residential Driveway for Commercial Vehicles – This claim is false. Kevin Wilkinson's work vehicle may be parked there and other employees or companies may stop also, but the driveway is not used by employees doing business for Wilkinson Excavating. Chairman Carlson stated that it should be clear that anyone can stop to visit even with a commercial vehicle, as long as the driveway is not being used by Wilkinson Excavating doing business.

Attorney McCormick expressed her concern with continuing to argue the same issues. Kevin Wilkinson does own his own personal equipment that is on the property. She further stated that in her opinion according to the bylaws the salt shed could be a by right use and that the Wilkinson's are trying to abide by the discussions at the last meeting and they are trying to find the best option for everyone's satisfaction. P. Levine asked if any plantings or other sound barriers were being considered to reduce the noise. Chairman Carlson asked to have Mr. Muller clarify what he is seeing on the property that he considers commercial equipment. Mr. Muller replied that a utility truck with machinery was on the property yesterday. P. Levine stated that personal equipment must be screened. Attorney McCormick replied that the only commercial item on the property is the salt shed and again stated that it is in the process of being relocated.

C. Miller stated that all commercial materials need to be removed from the property as it is 100% residential. K. Wilkinson stated that he has gravel on the property for his own personal use.

Darleen Wilkinson stated that not all of the noise on Boardman Street is created by Wilkinson Excavating. Jenn Wilkinson stated that she would love to have peace in the neighborhood and expressed her concerns with Mr. Muller.

N. Chase asked Attorney McCormick if she disputed the following:

- Storage of commercial materials on 1515 Boardman Street – Attorney McCormick replied she is not disputing this fact and again stated that is all being relocated but that will take time.
- Commercial vehicles on the property of 1515 Boardman Street – Attorney McCormick replied yes she is disputing this, the only vehicles are for personal use.
- Mixing of salt and sand at 1515 Boardman Street Attorney McCormick replied she is disputing this fact, this does not happen on the property.
- Residential driveway at 1515 Boardman Street being used by Wilkinson Excavating for business purposes - Attorney McCormick replied she is disputing this fact.

Attorney McCormick further stated that commercial equipment will be used at 1515 Boardman Street to remove all of the materials.

Attorney Belcher-Timme stated that the language in the Zoning Enforcement letter was a broad statement that would allow commercial activity. P. Levine stated that the wording is too open.

A Lasso asked if the other materials such as parts for septic systems would also be relocated, Joe Wilkinson stated yes, they will be moved 50-100' onto 1551 Boardman Street.

N. Chase made a motion to close the public hearing, seconded by A. Lasso. The motion carried unanimously.

The Board began deliberations.

N. Chase stated that Kevin Wilkinson has made an effort to comply without being asked.

P. Levine stated that clear decisions on each point of the appeal need to be made, including dates.

A. Lasso stated that during her conversation with Counsel pre-existing is before the bylaws were established and none of these uses occurred before the bylaws were established. These are not lawful pre-existing uses.

The Board made the following findings based on testimony:

1. Continued storage of salt, sand and gravel is occurring on the property and is not a lawful or pre-existing use on this property. The property owner is in the process of moving this material off the property.
2. Storage of commercial vehicles is not occurring on this property.
3. Mixing of salt and sand has occurred on the property but is not currently happening. As stated in #1 this will be relocated.
4. Use of Driveway by Commercial Vehicles this is not occurring on the property.
5. Storage of septic parts and other commercial material must be moved off the property.

P. Levine asked the Board to establish a time frame for the materials to be moved. N. Chase noted that the work has already started and that enough reasonable time should be given. J. Wilkinson stated that they are making every effort to complete the relocation but that it will take time. P. Levine stated that an extension could be requested to any time frame that the Board sets. Chairman Carlson asked K. Wilkinson if 1 year would be enough time, K. Wilkinson replied, yes. P. Levine stated that was too much time, A Lasso suggested by August 1, 2023. N. Chase suggested November 1, 2023.

The Board discussed the decision and having it reviewed by Counsel. M. Mitsoff stated that the Board should continue the hearing until January and to decide on a set date.

N. Chase made a motion to uphold the appeal and overturn the Zoning Enforcement's decision in the letter dated October 6, 2022, seconded by C. Miller. The vote was as follows:

E. Carlson – Aye

N. Chase – Aye

A. Lasso – Aye

C. Miller – Aye

P. Levine- Aye

It was the consensus of the Board to change the deadline to have the materials off the property to December 1, 2023 and to continue the review of the decision to January 17, 2023 at 6:30.

A Lasso thanked the Wilkinson's for their efforts with beginning the process of moving the materials.

M. Mitsoff suggested that the Board request that the Zoning Enforcement Officer provide the Zoning Board of Appeals a draft of any letters regarding zoning for the Board to review before they are sent.

P. Levine moved to approve the minutes from the July 25, 2022 meeting with one correction in the list paragraph "change leave to leaves", seconded by C. Miller. The motion carried unanimously.

A. Lasso moved to adjourn the meeting, seconded by N. Chase. The motion carried unanimously.

Chairman Carlson adjourned the meeting at 8:24 pm.

Respectfully submitted:



Rhonda LaBombard  
Town Administrator

Documents Reviewed at this Meeting:

Administrative Appeal filed by John Muller regarding 1515 and 1551 Boardman Street