

TOWN OF ALLENTOWN  
Zoning Board of Adjustments  
Allentown Fire Station  
1 Ferry Street  
Allentown, New Hampshire 03275  
November 20, 2019

**CALL TO ORDER**

The Allentown Zoning Board of Adjustments meeting of November 20, 2019 was called to order by Chair Keith Klawes at 6:38 pm. Chair Klawes called for the Pledge of Allegiance.

**ROLL CALL**

Present on the Board: Dawna Baxter, Jeff Gryval, Keith Klawes, Chad Pelissier

Allentown staff: Derik Goodine, Town Administrator

Others present: Eric Mitchell, Eric C. Mitchell & Associates, Engineering Consultant; Charlie Morgan, CJL, LLC; Mike Malinowski, Civil Engineer; Jason (unknown last name) Property Manager; Kevin Cate, Owner of Hooksett Rent-A-Tool

**NEW BUSINESS**

**ZBA Case #2019-08 CJL, LLC. Map#109 Lot 29-1 at 3 Chester Turnpike; Business Zone-Variance: Article VIII Section 801-Inside storage and warehousing. Requesting a mixed-use warehouse Vault Motor Storage (storage of vehicles, trailers & boats), Morgan Records Management, and Granite State Shuttle.**

Chair Klawes opened the hearing on ZBA Case #2019-08 and then asked about business going on at this property before obtaining a variance.

Mr. Morgan said that the Building Inspector had allowed temporary occupancy, saying that was fair and reasonable as they were getting ready to open for business.

Mr. Mitchell said that his office prepared the plans for Mr. Morgan. He said they were before the ZBA in September regarding impervious surface and have also been before the Planning Board for a subdivision and lot line adjustment. If this variance is permitted, he said, they will be before the Planning Board later this evening with a site plan. He said that the warehouse contains three businesses: Vault Motor Storage, Morgan Records Management, and Granite State Shuttle Services. He explained that the warehouse is not a self-storage facility. Vault Motor Storage provides secure storage for vehicles, which are taken in and brought out by appointment only. Morgan Records Management digitizes and stores records; no members of the public are coming and going. Granite State Shuttle has items delivered early in the morning in large vehicles and distributes these items in smaller vehicles during the day. The existing building has been rehabilitated, with outside improvements, a new roof, and a resurfaced parking lot. He said that the warehouse has been there for decades, but not all uses are grandfathered, so they need a variance for at least two of the uses. It is not suitable for retail or office use because of its



size and location. He said they are seeking a variance under Article VIII Section 801 so that the facility can be used for inside storage, warehousing and distribution. He then addressed the five criteria for a variance.

**1. There will be no diminution of value of the surrounding properties as a result of the granting of this variance.**

The property has been in use for decades and the proposed uses are similar to prior uses. The building and the parking lot have been rehabbed, which will actually add value.

**2. Granting of the variance will not be contrary to the public interest.**

The use does not alter the character of the neighborhood and does not threaten the health, safety or general welfare of the public.

**3. Enforcement of the zoning ordinance will create an unnecessary hardship in that the zoning restrictions**

- a. as applied to the petitioner's property will interfere with the petitioner's reasonable use of their property, considering the unique setting of the property in its environment.**

The site has been developed for decades and is located near Route 3 and Route 28. It is more suitable for the proposed uses than retail or offices.

- b. As specifically applied to the petitioner's property has no fair and substantial relationship to the general purposes of the zoning ordinance.**

The existing building and pavement have existed for decades and better serve the proposed uses than a business use like retail or offices.

- c. If relieved by a variance, will not injure the public or private rates of others.**

The location is proper for the proposed uses and the building façade and site paving have been improved.

**4. Through granting relief by a variance, substantial justice will be done.**

The development of the site has been established for decades and loss to the owner if the variance is not granted is not outweighed by any gains to the general public.

**5. The use for which the variance is requested will not be contrary to the spirit of the ordinance.**

Although the use is not listed as a permitted use, it is not listed as a prohibited one. The development of the site has existed for decades, and it will not threaten public health, safety or welfare.

Mr. Gryval said it appeared that Granite State Shuttle (GSS) would be using the space more for distribution than warehousing.

Mr. Mitchell said it would basically be distribution.

Mr. Gryval asked about the products being delivered.



Mr. Mitchell responded that GSS delivers medical and business supplies daily to banks, post offices, office supply stores and pharmacies.

Mr. Morgan added that these are small packages.

Mr. Gryval asked if any products were hazardous or regulated.

Mr. Mitchell said that there are no fuels. The Fire Department has already asked them to notify them if anything is regulated or hazardous. They do have a fork lift with a propane tank, he said.

Chair Klawes asked if these were one-way deliveries.

Mr. Mitchell said it was their understanding that these are one-way deliveries.

Mr. Morgan said it is the same as Northeast Logistics which was there before.

Chair Klawes asked about the hours of operation.

Mr. Mitchell said they thought they operated two shifts.

Chair Klawes asked who would have an exact answer.

Mr. Gryval asked why someone from GSS was not present.

Mr. Morgan said he could get someone on the phone to answer questions.

Mr. Timothy Meagher introduced himself via telephone. He said he works for GSS as Operations Manager.

Chair Klawes asked him what is coming and going.

Mr. Meagher said they do same-day deliveries, 13 routes per day. One of their two largest companies is Staples, where they deliver office products – about 1,200 parcel per day. The other large clients are two pharmaceutical companies, for whom they deliver over the counter and controlled narcotics. These are delivered to the warehouse at 2:00 am and are out for distribution by 6:00 or 6:30 am, covering ten routes. They deliver about 30 totes per day, and the drugs are contained in the totes. Inside the building, they have a cage where the drugs can be locked and are under video surveillance.

Chair Klawes asked if there were other hazardous items.

Mr. Meagher said no.

Mr. Gryval asked about hours of operation.

Mr. Meagher said they start at 2:00 am and are not staffed after 7:00 pm.

Mr. Goodine asked if this was an expansion of their other locations or of their Hooksett operation.

Mr. Meagher said they were no longer in Hooksett or Londonderry.

Chair Klawes asked if they had armed personnel.

Mr. Meagher said they did not.

Ms. Baxter asked about the number of vehicles.

Mr. Meagher said that three 53-foot trailers drop off items at 2:00 am. There are two 26-foot trucks for bulk deliveries and 30 to 35 other vehicles - sedans and cargo vans - for the rest of the deliveries. These, he said, are kept at the facility overnight, perhaps 40 vehicles.

Chair Klawes asked about the effect on traffic.

Mr. Meagher said they depart in waves between 6:00 am and 7:30 am to cover the ten routes. The 13 routes for Staples are spread over two hours.

Chair Klawes asked why they left Hooksett and Londonderry.

Mr. Meagher said the space in Hooksett was not large enough and the rent in Londonderry was too high.

Chair Klawes asked about break-ins, either at their facilities or of their vehicles.

Mr. Meagher said zero.

Ms. Baxter asked where their vehicle maintenance was done.

Mr. Meagher said that work was done offsite.

Mr. Gryval made a motion to enter deliberations. Ms. Baxter seconded the motion. A roll call vote was taken on the motion: Mr. Gryval – aye; Ms. Baxter – aye; Mr. Pelissier – aye; Mr. Klawes – aye. The motion carried unanimously.

Chair Klawes asked the ZBA members for responses to the five criteria for a variance.

- 1. There will be no diminution of value of the surrounding properties as a result of the granting of this variance.**

Mr. Gryval said the uses are the same as they have been, so property values should not decline.

All Board members agreed that this criterion had been satisfied.

- 2. Granting of the variance will not be contrary to the public interest.**

Mr. Pelissier said that operating at night is a concern. Northeast Logistics operated this way. He said that since there is no residential development nearby, it might not be a significant problem.

Ms. Baxter asked about Morgan Records Management, since it was not discussed prior.

Mr. Morgan said that items are stored in bankers' boxes. He said he did not know how many he would ultimately have, but in his Manchester facility he has 200,000 boxes. He said he will go over this with the Fire Department. He said he has 22,000 square feet of space with racks for the boxes. It is a benign use, he said, with no people enter the storage facility. He added that they would be reviewing the site plan with the Planning Board.

All Board members agreed that this criterion had been satisfied.



**3. Enforcement of the zoning ordinance will create an unnecessary hardship in that the zoning restriction**

- a. **as applied to the petitioner's property will interfere with the petitioner's reasonable use of their property, considering the unique setting of the property in its environment.**

All Board members agreed that this section had been satisfied.

- b. **as specifically applied to the petitioner's property has no fair and substantial relationship to the general purposes of the zoning ordinance.**

All Board members agreed that this section had been satisfied.

- c. **if relieved by a variance, will not injure the public or private rates of others.**

All Board members agreed that this section had been satisfied.

**4. Through granting relief by a variance, substantial justice will be done.**

All Board members agreed that this criterion had been satisfied.

**5. The use for which the variance is requested will not be contrary to the spirit of the ordinance.**

All Board members agreed that this criterion had been satisfied.

Mr. Gryval made a motion to come out of deliberation. Mr. Pelissier seconded the motion. A roll call vote was taken on the motion: Mr. Gryval – aye; Ms. Baxter – aye; Mr. Pelissier – aye; Mr. Klawes – aye. The motion carried unanimously.

Mr. Gryval made a motion to grant the requested variance from Article VIII Section 801 for the property at 1 Chester Turnpike. Mr. Pelissier seconded the motion. A roll call vote was taken on the motion: Mr. Gryval – aye; Ms. Baxter – aye; Mr. Pelissier – aye; Mr. Klawes – aye. The motion carried unanimously.

Chair Klawes informed the applicant that there is a 30-day appeal period.

Chair Klawes called for a five-minute recess at 7:27 pm.

Chair Klawes called the meeting back to order at 7:32 pm.

**ZBA Case#2019-07 – Hooksett Rent A Tool, LLC. Map#109-Lot#031 at 43 Allenstown Road Business Zone- Variance: Article VIII Section 802.f – Motor Vehicle Rental; Purpose requesting to rent, sell and service lawn/garden and construction equipment.**

Chair Klawes opened the hearing on ZBA Case #2019-07 and asked for introductions.

Mr. Michael Malinowski said he is a civil engineer with LMNA Associates.

Mr. Jason (unknown last name) said he is the property manager.



Mr. Kevin Cate said he is the owner of Hooksett Rent A Tool, LLC, the company seeking a special exception.

Mr. Malinowski stated that his client, Mr. Cate, wants to operate a business that rents and sells motor vehicle equipment at 43 Allentown Road. The business rents mainly small construction equipment. No construction or site improvements will take place, except for some striping of the parking lot. He said that the sale or rental of power equipment is allowed by special exception at this location, which is a business zone.

Ms. Baxter asked about the Dunkin' Donuts line of traffic.

Mr. Malinowski said they can pull into a space to pass, if necessary.

Mr. Cate said that if a customer wants a large piece of equipment, they will deliver it. Otherwise, people will come to the store for rentals. He said they have surplus parking. The store will be in the front and storage will be in the back.

Chair Klawes asked if the business would be parking equipment outside.

Mr. Cate said they have three parking spaces in the front where they will display items that can be rented. Trucks will be parked inside.

Chair Klawes asked about equipment maintenance.

Mr. Cate said that would be done inside. They have a 55-gallon drum which gets filled only about once each year.

Chair Klawes asked why they are moving the business.

Mr. Malinowski said the Hooksett building is being sold. Their offer to buy was not accepted. Also, they were on Bypass 28 and cars speed by at 50 to 55 miles per hour. The posted limit is 45 miles per hour. He said they were running out of space in the Hooksett facility and there was no heat.

Mr. Gryval asked if the overhead garage door was located on the south end of the building.

Mr. Malinowski said that it was.

Mr. Gryval said he is concerned about noise and odors because the business would be located between a pizza restaurant and a Dunkin' Donuts.

Mr. Malinowski said noise would not be a problem because they use hand tools. Regarding odors, an exhaust fan will be installed.

Chair Klawes asked if they had talked with the people at Dunkin' Donuts or at the pizza restaurant.

Mr. Cate said that he has not done that.

Mr. Gryval noted that no abutters were present to express concerns.

Chair Klawes asked about washing the equipment.

Mr. Malinowski said they have an internal drain and a separator for grease and oil.



Mr. Cate said that he has 38 years of experience in this business and has also worked as a compliance and safety manager.

Mr. Gryval made a motion to enter deliberations. Ms. Baxter seconded the motion. A roll call vote was taken on the motion: Mr. Gryval – aye; Ms. Baxter – aye; Mr. Pelissier – aye; Mr. Klawes – aye. The motion carried unanimously.

Chair Klawes presented the nine (9) criteria for a special exception and read the responses of the applicant.

**1. No hazard to the public or adjacent property on account of potential fire, explosion, toxic materials or hazardous activity.**

Response of Petitioner: The applicant proposes to occupy an existing retail space for the purpose of renting, selling and servicing lawn/garden and small construction equipment. These types of services do not pose a potential for fire, explosion, toxic materials or hazardous activity.

Mr. Gryval stated that he is concerned about vehicle and equipment fuel, plus a 55-gallon oil drum in a business between a Dunkin' Donuts and a pizza restaurant.

Chair Klawes asked about fire suppression equipment.

Mr. Cate said they had no plans for that. He noted that waste oil has a very, very, very high flash point. He said the Building Inspector has talked about a one-hour fire envelop to meet the fire code. He said they will be adding heat detectors and audio/visual surveillance.

Mr. Pelissier said as long as they meet the code, he is okay with this. He added that gasoline is more of a concern than oil or diesel fuel.

**2. No detriment to property values in the vicinity or change in the essential characteristics of a residential neighborhood due to the location or scale of buildings and other structures, parking areas, access ways, odor, smoke gas, dust or other pollutants, noise, glare, heat, vibration or unsightly outdoor storage of equipment, vehicles or other materials.**

Response of Petitioner: The proposed use will occupy a currently vacant space within an existing multi-tenant commercial building already situated on the parcel with ample existing parking and reasonable access ways. The proposed use will not cause odor, smoke, gas, dust, or other pollutants, noise, glare, heat or vibration. The applicant proposed to maintain a minimal display area limited to clean equipment consistent with the rental business.

Ms. Baxter asked about the display of three pieces of equipment in the parking lot.

Mr. Cate said they would be in parking spaces and might have 'RENT ME' banners on them.



All Board members agreed that this section had been satisfied.

**3. No creation of a traffic safety hazard or unmitigated substantial increase in the level of traffic congestion in the vicinity.**

Response of Petitioner: The proposed use will occupy a currently vacant space within an existing multi-tenant commercial building already situated on the parcel and will not create a traffic safety hazard or substantially increase the congestion.

All Board members agreed that this section had been satisfied.

**4. No excess demand on municipal services including but not limited to water, sewer, waste disposal, police and fire protections and schools.**

Response of Petitioner: The proposed use will occupy a currently vacant space within an existing multi-tenant commercial building already situated on the parcel. The proposed use does not attribute a higher demand to water, sewer, waste disposal, police & fire protection not schools than the previous commercial use.

All Board members agreed that this section had been satisfied.

**5. No significant increase of storm water run-off onto adjacent properties or public ways.**

Response of Petitioner: As there are no proposed building additions or the creation of paved surfaces, there will be no increase in storm water run-off to the adjacent properties or public ways.

All Board members agreed that this section had been satisfied.

**6. In an appropriate location for the proposed use.**

Response of Petitioner: The applicant is proposing a use that is allowed by special exception and is consistent with the commercial uses already existing on the parcel and within the immediate vicinity.

Mr. Gryval said he remains concerned about the location of the business between two restaurants.

**7. No adverse effect on the health and safety of residents and others in the area and the proposed use shall not be detrimental to the use or development of adjacent or neighboring properties.**

Response of Petitioner: The proposed use will not have an adverse effect on the health and safety of residents or others in the area since the proposed use is consistent with other types of uses allowed in Town. The use would also provide a beneficial service to the residents of Allentown not commonly available and will be operated in accordance with all applicable state and local regulations.

All Board members agreed that this section had been satisfied.



**8. In the public interest and in the spirit of the ordinance.**

Response of Petitioner: The proposed use is allowed via special permit and would provide a useful service to the residents of Allentown not commonly available.

All Board members agreed that this section had been satisfied.

**9. Requirements set forth in the ordinance for the particular use permitted by special exception.**

Response of Petitioner: Under Section 802.d, the applicant is allowed to request a special exception for this use.

All Board members agreed that this section had been satisfied.

Chair Klawes made a motion to come out of deliberation. Mr. Gryval seconded the motion. A roll call vote was taken on the motion: Mr. Gryval – aye; Ms. Baxter – aye; Mr. Pelissier – aye; Mr. Klawes – aye. The motion carried unanimously.

Mr. Gryval made a motion to grant a special exception as provided in Article VIII Section 802 to allow a business renting and selling power equipment and small construction equipment at 43 Allentown Road. Mr. Pelissier seconded the motion. A roll call vote was taken on the motion: Mr. Gryval – no; Ms. Baxter – aye; Mr. Pelissier – aye; Mr. Klawes – aye. The motion carried (3-1).

Chair Klawes informed the applicant that the special exception was granted and that there is a 30-day appeal period.

**UNAPPROVED & UNSIGNED MINUTES**

Mr. Gryval said that he asked a question near the end of the September 25<sup>th</sup> meeting which was answered but the answer was not recorded in the minutes.

Chair Klawes said the minutes could be approved with that correction.

Ms. Baxter said she would speak with the transcriptionist about making the correction.

Chair Klawes made a motion to approve the minutes of the September 25, 2019 meeting as corrected. Mr. Gryval seconded the motion. A roll call vote was taken on the motion: Mr. Gryval – aye; Ms. Baxter – aye; Mr. Pelissier – aye; Mr. Klawes – aye. The motion carried unanimously.

Mr. Gryval made a motion to adjourn at 8:10 pm. Chair Klawes seconded the motion. A roll call vote was taken on the motion: Mr. Gryval – aye; Ms. Baxter – aye; Mr. Pelissier – aye; Mr. Klawes – aye. The motion carried unanimously and the meeting was adjourned.



ZBA

SIGNATURE PAGE

November 20, 2019

| SIGNATURE   | MEMBER                        | DATE            |
|---|-------------------------------|-----------------|
|  | Keith Klawes, Chairman        | <u>12-11-19</u> |
|  | Chad Pelissier, Vice Chairman | <u>12-11-19</u> |
|  | Dawna Baxter, Secretary       | <u>12.11.19</u> |
|  | Jeff Gryval, Member           | <u>12-11-19</u> |
|   | Roger Laflamme, Member        |                 |