

**MINUTES OF PUBLIC HEARING
HELD BY THE ZONING BOARD OF APPEALS
LINCOLN CENTER HEARING ROOM
MARCH 30, 2016**

MEMBERS PRESENT: James R. Stevenson, Chair
Albert Gionet, Vice Chair
Robert Haley, Secretary
Edward Slegeski

ALTERNATES PRESENT: Armando Darna (Sitting)
Sandra DeCampos
John Topping

ABSENT: Kevin Dougan

ALSO PRESENT: Renata Bertotti, Senior Planner
James Davis, Zoning Enforcement Officer
Katie Williford, Administrative Secretary

The Chair opened the Public Hearing at 7:00 p.m. The Secretary read the legal notice for the application when the call was made.

ERIN EMMONS - application #2016-019 - Request a variance of Art. II Sec. 16.13 to allow food vending at 422 North Main Street, Industrial Zone.

Ms. Erin Emmons from Lucky Taco, 829 Main Street, presented her application requesting a variance to park a food truck at 422 Main Street, the new site of Top Shelf Brewery. She said she hoped to improve the local economy by bringing in more small business. Lucky Taco has been in the food truck industry since 2011 and has a great record with the Health and Police Departments, she said. The food truck is proposed to be open during the brewery's tasting hours and the truck would not stay open later than brewery is open, Ms. Emmons said. In response to a question from Mr. Stevenson about the logistics of the food truck operation, Ms. Emmons said customers would wait for food outside and take it inside to eat. Someone from Top Shelf Brewery would monitor where customers were drinking beer and she was not sure if Top Shelf had a patio permit, she said. In response to a question from Mr. Stevenson, Ms. Emmons said she would not be opposed to it if the Board required Lucky Taco to hire security or a police officer to control where customers were drinking their beer. Ms. Emmons said she hoped to keep the truck onsite semi-permanently, moving it once a week for maintenance. The truck is completely self-contained and waste would be disposed of at the dumpster at Lucky Taco, the home base of operations, she said. Signage would be a chalkboard attached to the truck with the menu on it, and the brewery would probably have a chalkboard on their wall to say if the food truck was open or closed and what the daily specials were. Ms. Emmons said the truck will be located away from the view of the street and there is no building entrance on the side where the truck is proposed to be located. If they the brewery puts in a patio, the truck would still be out of the way of that, she said. Ms. Emmons would like to have the truck there year-round if weather permits, but would have the truck moved if a storm was expected, to allow for snow removal.

In response to questions from Mr. Haley, Ms. Emmons replied that the truck is currently kept on her father's property in Vernon, and she would prefer not to move the truck every night but

might be able to concede to that if needed. Moving the truck once a week would allow for smoother business operation, she said.

In response to questions from Mr. Gionet about the hours of operation, Ms. Emmons said the brewery closes at 9:00 p.m. and she would like the food truck to stay open when the brewery is. Mr. Gionet asked if it would be a problem for the applicant to remove the truck overnight and Ms. Emmons responded that the hardest part would be to hire a driver to move it back and forth. In response to questions from Mr. Slegeski, Ms. Emmons said she lives in Vernon, the truck is registered in Vernon, and property taxes are paid to Vernon. In response to questions from Mr. Topping, Ms. Emmons said she could file for the personal property taxes for equipment in the truck in Manchester if needed. Mr. Topping raised the concern about the security of the truck if it was left onsite overnight. Mr. David Emmons, Executive Chef for Lucky Taco, said the property is gated and closed off at night and the equipment in the truck is built-in so it can't be removed. Mr. Stevenson asked if the truck could be put in the garage at the brewery overnight. Mr. Emmons said he discussed that with the brewery and they said the truck could be put in the garage, but once the brewery starts to grow and more tanks go in, that could be an issue.

In response to a question from Mr. Haley, Ms. Emmons said cooked food that isn't sold during the day will be discarded; nothing will be refrigerated and left overnight. Everything will be turned off at the end of the night and perishable items will go back to the restaurant, she said. Mr. Darna asked about the location of the generator on the truck, noting that there are people who live nearby who could be disturbed by the noise. Mr. Emmons said the generator would be on the ground and he could maneuver it anywhere he needs to baffle it. He added that Lucky Taco has done catering and weddings and never had a problem. Mr. Darna asked how long after 9:00 p.m. the generator would be on. Mr. Emmons said the generator can be shut off at whatever time the Board decides.

Mr. Stevenson asked if any member of the public wished to comment either in favor of or in opposition to this application. No member of the public came forward at this time.

Ms. Bertotti said Town staff doesn't have outstanding technical comments but the Health Department did comment that the applicant filed the wrong type of form with the Health Department. Ms. Bertotti said the Health Department hasn't approved the newly submitted form yet, but the granting of the variance shouldn't be held up because of that, because that is separate from this approval. Ms. Bertotti noted that the Board has seen several special exception applications for vending and staff has recommended putting time limits on approvals; however, because this is a variance application, the Board can't limit the approval. The use table in the Industrial zone was recently revised to add some uses at the request of the EDC because of vacancies, lack of business influx, and lack of tenancy in the Industrial zone, Ms. Bertotti said. She noted that there are breweries in Bloomfield and Enfield that have food trucks.

Mr. Stevenson asked if the variance would remain even if the brewery became a different type of business. Ms. Bertotti confirmed that the variance runs with land and this use would be allowed to stay forever if granted. Mr. Slegeski asked if the Board could require the truck to be moved every night and Ms. Bertotti confirmed the Board could include that as a condition of the approval. Ms. Bertotti said under the current language of the proposed zoning regulation amendment for vending, this would have been permitted and the applicant would need to remove the food truck every night. Mr. Slegeski asked if a condition could be included in the approval saying, when and if the Town adopts this policy, the applicant would have to then follow it. Ms. Bertotti said no, if the variance is granted, it remains in the conditions that it was given at the

time. Mr. Haley asked if this approval would only apply to this particular vendor and Ms. Bertotti said this variance applies to this property and to this particular request, with a specific food truck, proposed location, and proposed hours of operation. Mr. Gionet asked if the truck could be changed from Lucky Taco to another type of food and Ms. Bertotti said it could. She said the Board could condition the dimensions of the truck, but the applicant can change the menu. Mr. Gionet asked if another food truck would need approval from the Board to operate at the property and Ms. Bertotti said no, as long as the truck was the same size, in the same location, with the same hours of operation. Mr. Stevenson added that this specific square foot location is the only place on that property where a truck could be. Mr. Davis said unless Lucky Taco abandoned this location, another truck would have to come before the Board. Ms. Emmons said the proposed hours are the maximum hours the truck would be open.

BOGNER REALTY, LLC – application #2016-020 – Request a variance of Art. VII Sec. 1(b) to allow a 36 foot tall tank (18' permitted) for storage of nitrogen at 349 Wetherell Street, Industrial zone.

Attorney Rick Conti, who practices law on Main Street, spoke on behalf of the applicant. The Bogner family and Manchester Packing has been around since 1942 and this is the third generation at 349 Wetherell Street. To the west of the parcel is Manchester Community College, to the north is the International Brotherhood of Electrical Workers (IBEW) location, to the east is the Ansaldi operation, and across the street is vacant land. The proposed tank would hold liquid nitrogen for the freezing operation onsite. Attorney Conti showed a photo of a 36-foot tall tank in a different location. He noted that 36' is shorter than structures on the abutting properties. Eversource high tension wires immediately to the west, across the street from the property, are over 100' in height. Structures in the Ansaldi complex and on the IBEW's property are taller than 36'. Attorney Conti showed a photo of the Manchester Packing Company facility and noted that an existing structure is in excess of 36' high already. He stated that Linde, the business that proposes to supply nitrogen, recommended a 36' high vertical tank because it would allow less frequent deliveries as compared to smaller tanks. Attorney Conti said he mistakenly stated on the application that horizontal tanks are not available. Linde doesn't do horizontal tanks because they have to special order them and they have to be higher off the ground, which is less safe, he said. A vertical tank gives the right amount of pressure to get the nitrogen into the building, he said. Attorney Conti said he contacted two abutters, Ansaldi and IBEW, and neither had any objections. If the 18' maximum height regulation is to prevent taller buildings sticking out as eyesores among shorter ones, in this neighborhood the 36' high tank would be shorter than structures on the abutting properties, he said.

Mr. Slegeski asked if freezer apparatus inside the building would need to be changed and whether any addition to the building would be needed. Attorney Conti replied that the applicant will install a flash freezing operation but it will be within the existing building. Mr. Haley asked if the access road to the tank will need improvement and noted there are empty trailers there. Attorney Conti said improvement to the road will not be needed and the trailers will not remain where they are. Mr. Gionet asked what danger the tank would create and Attorney Conti replied that nitrogen is in the air; it's not explosive or toxic. If released in a stream it would freeze your hand, but released into the atmosphere it is not a danger, he said. Mr. Topping asked if there would be bollards around the tank to prevent vehicles from hitting it and Attorney Conti replied there would be.

Mr. Stevenson asked for confirmation that there would be no advertising of Bogner's or the liquid nitrogen company on the tank. Attorney Conti said the applicant would comply with

zoning regulations regarding advertisement. Mr. Stevenson noted that the tank in one of the photos Attorney Conti presented has a large sign that says "danger," and asked why that would be the case if the tank in the photo was exactly like the proposed tank. Attorney Conti clarified that he meant the tank in the photo was approximately what the proposed tank would look like. He said unless it was required by governmental regulations that he was not aware of, there would be no danger warning sign on the proposed tank. Mr. Stevenson asked if the applicant would be amenable to a condition that there can be no lettering on the tank. After conferring with the applicant, Attorney Conti stated that there would be no advertising on the tank.

Ms. Bertotti said there were no outstanding staff comments. She asked the Board not to add a condition requiring that there be no danger signs on the tank, because such signs might involve federal regulations that are beyond the Board's purview. Mr. Topping raised the concern that getting a tank without a company name on it could be a financial burden for the applicant, since he had never seen such a tank without the company name on it. Mr. Stevenson replied that the name could be painted over easily and because the applicant is a customer paying a lot of money, they could probably dictate what is on the tank.

Mr. Stevenson asked if any member of the public wished to comment either in favor of or in opposition to this application. No member of the public came forward at this time.

TOWN OF MANCHESTER DEPARTMENT OF LEISURE, FAMILIES AND RECREATION – application #2016-024 - Request a variance of Art. IV Sec. 13.06.01 to allow an 11' high sign for Spruce Street Garden (5' maximum height permitted) at 153 Spruce Street, Residence B zone.

Mr. Chris Silver, Director of the Department of Leisure, Families and Recreation, presented the application requesting a variance to allow an 11' high sign for the Spruce Street community garden at 153 Spruce Street, the location of the East Side Neighborhood Resource Center, also known as the old Spruce Street firehouse. The sign would be 11' from the property line and would serve as the entryway to the garden. The proposed sign would not be illuminated. The sign is 7' wide with an 8' high threshold to allow access through the gate. Including decorative pieces on the top of the sign, it reaches 11' in height. The artwork is metalsmithing and the sign posts are wrapped in aluminum and cemented into the ground, Mr. Silver said. In response to a question from Mr. Gionet, Mr. Silver said the white pillars shown in the rendering are about four feet tall, and from there up the sign is wood frame-and-post wrapped in aluminum. Mr. Slegeski asked if the base would be durable and why concrete was not used. Mr. Silver responded that the posts extend all the way through and the base is more of a wrap, cemented into the ground. The designer suggested the materials, but the design could be altered, he said. Mr. Topping raised a concern about graffiti and asked how easy the sign would be to repaint. Mr. Silver replied that there seems to be a respect for improvements in the neighborhood and since the center opened six years ago, they have not had any graffiti. In response to a question from Mr. Stevenson Mr. Silver confirmed the entryway is for pedestrians only.

Ms. Bertotti said there were no outstanding comments from staff. Mr. Haley asked whether the archway would have needed the Zoning Board's approval if it did not have lettering on it, and Ms. Bertotti replied that it would not, as long as it was an approved accessory structure located appropriately away from the setback lines and less than 18' in height.

The public hearing on this application was closed and the public hearing portion of the meeting was closed at 8:05 p.m.

I certify these minutes were adopted on the following date:

April 27, 2016

Date

James Stevenson, Chair

**NOTICE: A DIGITAL RECORDING OF THIS PUBLIC HEARING CAN
BE HEARD IN THE PLANNING DEPARTMENT.**

kmw