

EAST LONGMEADOW PLANNING BOARD

Date: June 28, 2022

Time: 6:00 PM EST

Place: Zoom Webinar



MINUTES

Chair Russell Denver opened the meeting at 6:00 PM.

CALL THE ROLL

Present Russell Denver, Chair
 George Kingston, Vice Chair
 Jonathan Torcia, Clerk
 Pete Punderson
 Cassandra Cerasuolo

Staff Present Bailey Mitchell, Director of Planning & Community Development

CONTINUED BUSINESS

1. **Review and discussion of revocation of Special Permit (HBT SP 2009-0019)** for Paul Bunyan Wood Co., a Home Based Trade at 160 Mapleshade Avenue, East Longmeadow, MA 01028 c/o Thomas O'Brien due to violation of Special Permit Conditions. (Cont. 4/19/2022; Cont. 5/17/2022; Cont. 6/21/2022)

Chair Russell Denver summarized the previous public meetings regarding this agenda item. Chair Russell Denver reiterated that this is a public meeting, not a public hearing, and that public comment is taken at the discretion of the Chair. Chair Russell Denver reiterated that this review and discussion is specific and limited to the violations of Special Permit Conditions cited in the Notice of Violation issued by Kevin Duquette, Zoning Enforcement Officer.

Petitioner Tom O'Brien and his wife Darlene O'Brien were present for discussion.

Terri Leone, 205 Mapleshade Avenue, entered the meeting to discuss a meeting held between herself and Mr. O'Brien outside of the Planning Board public meetings. Ms. Leone stated the meeting did not resolve the violations of the Special Permit Conditions. Mr. O'Brien concurred that there was no resolution from the meeting. Mrs. O'Brien stated that noise is not one of the violations cited.

Vice Chair George Kingston stated there were statements made by Mr. O'Brien in the meeting minutes from April 13, 2009, when the Special Permit was granted, that are not being up-held. Vice Chair George Kingston stated there is evidence of violation as Mr. O'Brien had stated logs would not be brought onto the property from other locations during the 2009 meeting.

Board member Pete Punderson concurred with Vice Chair George Kingston; the Special Permit Conditions specify that no logs are to be brought on the property from off site and no retail business is to be conducted on the property. Board member Pete Punderson stated the business conducted on Mr. O'Brien's property cannot conform to the Special Permit.

Board member Cassandra Cerasuolo and Clerk Jon Torcia echoed statements made by Board member Pete Punderson and Vice Chair George Kingston. Clerk Jon Torcia reiterated that the ELPD reports only have record of noise complaints made this year.

Chair Russell Denver reviewed the letter Mr. O'Brien sent to abutters on May 12, 2022. Chair Russell Denver stated the letter contained admission of violation, quoting the letter: "I now have seen and read the Special Permit and understand and will abide all of the specific conditions."

Attorney Larry Levine was present for discussion on behalf of the petitioner. Attorney Levine reiterated the Planning Board review is limited to the conditions cited in the Notice of Violation. Attorney Levine claimed Mr. O'Brien never received a copy of the Special Permit and had only received a copy of the Special Permit after the Notice of Violation was issued in 2022. Attorney Levine stated Mr. O'Brien does not agree with how the meeting was reflected in the meeting minutes. Attorney Levine stated he has contacted Thomas Morrissette, the Chairman of the Planning Board in 2009, who confirmed his recollection of the meeting aligned with Mr. O'Brien's recollection. Attorney Levine stated Mr. O'Brien would not have obtained a Special Permit that limited his already existing business operation. Attorney Levine stated the word "harvesting" is not mentioned in the meeting minutes from April 13, 2009. Attorney Levine gave an overview of how Mr. O'Brien operates his business and stated there is no evidence of violation. Attorney Levine stated in 22 years, there have been 2 calls to the ELPD for noise complaints and the officer on scene reported no noise violation.

Vice Chair George Kingston stated meeting minutes and recorded documents are available to the public and ignorance to the conditions of the Special Permit does not constitute excuse for violation. Vice Chair George Kingston stated reapplying for a Special Permit with more specific conditions is allowed.

Board member Pete Punderson stated there is evidence of violations of Special Permit Conditions, regardless of the definition of "harvesting".

Ms. Leone stated she provided complaints of noise and traffic during the meeting on April 13, 2009 and the noise level has not decreased since then.

Chair Russell Denver asked the Board if they would like to open the meeting to more public comments. The Board closed the meeting to public comment.

Mr. O'Brien disagreed with the comments provided by Ms. Leone and requested public comment from abutters in support be allowed. Mr. O'Brien stated he has no knowledge of the letter referenced by Chair Russell Denver (Attachment A). Mr. O'Brien reiterated that the operation of his business has not changed in 23 years and the complaints have just recently started by a minority number of neighbors. Mr. O'Brien suggested a violation of the Open Meeting Law had recently been made by board members regarding this agenda item; Vice Chair George Kingston denied a violation of the Open Meeting Law and suggested the petitioner file a complaint with evidence. Clerk Jon Torcia echoed Vice Chair George Kingston's comments and affirmed correct meeting proceedings by himself and the Board.

Chair Russell Denver asked for Attachment A be added to the meeting record. Mr. O'Brien reviewed Attachment A and confirmed he signed the letter. Mrs. O'Brien reiterated disagreement with the April 13, 2009 meeting minutes. Mr. O'Brien stated the language of the Special Permit Conditions and meeting minutes are not an adequate representation of the April 13, 2009 public hearing. Mrs. O'Brien reiterated that Mr. O'Brien would not have applied for a Special Permit that was contradictory to the operation of his business, at that time.

Board member Pete Punderson reiterated the Special Permit Condition violations in question. Board member Pete Punderson suggested reapplying for a Special Permit with less ambiguous language. Board member Pete Punderson stated when he visited the property in 2009 there was no stockpiling of logs or logs being brought on site from off site.

Mr. O'Brien stated his business is protected under agricultural law and he has moved the business 1,000 feet away from the property line to help alleviate noise complaints. Mr. O'Brien stated tractor trailers and occasionally log trucks enter and leave his property, for log storage overnight. Mr. O'Brien asked for public comment from abutters in support. Chair Russell Denver stated public comment was accepted in previous meetings, but no further public comment will be taken at this meeting.

Motion to revoke the Special Permit made by Clerk Jon Torcia.

Board member Pete Punderson stated he wishes for Mr. O'Brien to be able to reapply for a new Special Permit. Chair Russell Denver stated that is within the petitioner's right.

Board member Pete Punderson seconded the motion.

There were no further comments or questions from the Board at this time.

Motion to revoke the Special Permit made by Clerk Jon Torcia; second by Board member Pete Punderson and approved by roll call vote of four (4)-one (1).

Chair Russell Denver-Yes	Vice Chair George Kingston-Yes
Clerk Jon Torcia-No	Board member Pete Punderson- Yes
Board member Cassandra Cerasuolo-Yes	

ADJOURN

Motion to adjourn made by Board member Pete Punderson; second by Vice Chair George Kingston and approved by roll call vote five (5)-zero (0) at 6:55 PM.

LEVINE LAW
56 SOMERS ROAD
EAST LONGMEADOW, MA 01028

LAWRENCE J. LEVINE, ESQ.
JOSHUA Y. LEVINE, ESQ.

PHONE (413) 525-5757
FAX (413) 525-7265

May 17, 2022

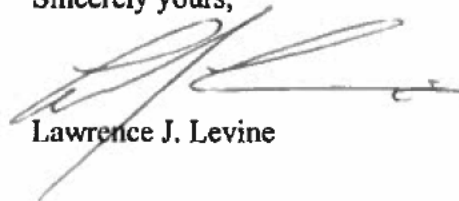
Town of East Longmeadow
Planning Board
60 Center Square
East Longmeadow, MA 01028

Re: Special Permit HBT SP 2009-0019 – Thomas O'Brien d/b/a Paul Bunyan Wood Co.
160 Mapleshade Avenue

Dear Planning Board Members:

Please be advised that I represent Mr. Thomas O'Brien regarding alleged violations of the above-mentioned special permit. The continuation of this matter is scheduled for discussion by your Board this evening. Mr. O'Brien respectfully requests that this matter be continued to a future meeting to be held in person with the Board. I have attached copies of three letters sent by Mr. O'Brien to the complainant and two other citizens being optimistic that he can meet with them to discuss their concerns.

Sincerely yours,



Lawrence J. Levine

LJL/js
enclosures

May 12, 2022

Ms. Dawn L. Currier
195 Mapleshade Avenue
East Longmeadow, MA 01028

Dear Ms. Currier,

I have been running my business at my property at 160 Mapleshade Avenue since the year 2000 when I bought this property. I have conducted Paul Bunyan Wood company the exact same way at this location for over 22 years. In 2009, I applied for a home-based trade special permit for the business in the same manner I had been conducting since 2000. My special permit is now 13 years old and nothing has changed.

My wife and I recently received documentation from the building inspector; specifically, a copy of the my special permit and the meeting minutes of the 2009 Planning Board Meeting. It was the first time my wife, Darlene and myself had seen either of these documents. The minutes and special conditions were never sent to us. Many of the special conditions that are listed never came up in the minutes as reflected.

In 2009, I represented the business exactly as it was run; a residential tree service that also did some land clearing and logging. At the time and to this day, I do not operate a sawmill, firewood business nor chip wood on the property. During the meeting, I was asked directly by the then Director of the Planning Board if I would be operating a sawmill or firewood business there. "I was not" was my reply which is true to this day. The term grinding had come up in the minutes and I responded that "Yes I had ground (In the industry, Ground is another word for chipped) there on a couple occasions but do not need to do that anymore. For me to operate my business and earn a living for my family, I need to operate my business as I do now and did then. I harvest wood at my property and cut trees at other properties. The wood is cut into measured lengths and trimmed using a chainsaw and moved offsite via my own truck or via tractor trailer to wholesale sites elsewhere. I do not mill wood, process retail firewood nor chip (grind) wood at this location. These questions were asked and answered at the meeting. A different narrative was represented in the minutes regarding wood coming and going. On occasion I run a chainsaw and my log truck on my property to conduct my business. I haven't owned a chipper in over ten years. Any chippable wood goes offsite and I let someone else chip (grind) it. I answered the boards questions honestly and haven't deviated my business in any way. I continue to

conduct my livelihood the same way since being granted the special permit as I did before I received my special permit.

I now have seen and read the special permit and understand and will abide by all the specific conditions. In an effort to alleviate some concerns, I have moved the location of the logs brought to my property to a location further back from Mapleshade Avenue. I would welcome the opportunity to meet and speak with you regarding your concerns to reach a common understanding. Please call me at your earliest convenience at to arrange a convenient time to meet.

Sincerely yours



Thomas O'Brien

MY PHONE NUMBER IS



May 12, 2022

Ms. Patricia M. Whooley
209 Mapleshade Avenue
East Longmeadow, MA 01028

Dear Ms. Whooley,

I have been running my business at my property at 160 Mapleshade Avenue since the year 2000 when I bought this property. I have conducted Paul Bunyan Wood company the exact same way at this location for over 22 years. In 2009, I applied for a home-based trade special permit for the business in the same manner I had been conducting since 2000. My special permit is now 13 years old and nothing has changed.

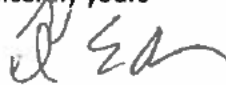
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Sincerely yours



Thomas O'Brien

my PHONE NUMBER IS



May 12, 2022

Ms. Terri Leone
205 Mapleshade Avenue
East Longmeadow, MA 01028

Dear Ms. Leone,

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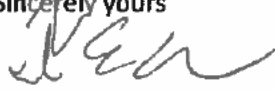
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Thomas O'Brien

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