

**MINUTES OF PUBLIC HEARING
HELD BY THE ZONING BOARD OF APPEALS
LINCOLN CENTER HEARING ROOM
FEBRUARY 22, 2023**

MEMBERS PRESENT:

In Person: James R. Stevenson, Chair
Robert Haley, Vice Chair
Edward Slegeski
Sandra DeCampos

ALTERNATES PRESENT:

In Person: Kevin Hood, Sitting
Harun Ahmed

ABSENT:

Keshet Spadaccini, Secretary
Linda Harris

STAFF PRESENT:

In Person: Megan Pilla, Principal Development Planner
Electronically: James Davis, Zoning Enforcement Officer
Nancy Martel, Recording 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.

HERMES BAEZ, SOCHLO CREAM LLC – Application #VAR-0036-2022 – Request a variance of Art. II, Sec. 1.03.01 (b) to allow a commercial vehicle exceeding one ton on a personal residential driveway at 15 Chester Drive, Residence A zone.

Mr. Hermes Baez, 15 Chester Drive, introduced himself. Mr. Baez explained that he is requesting the variance to allow him to park his business truck in his driveway. The truck runs on electricity, which is necessary to preserve the product inside.

Mr. Haley inquired about Mr. Baez’s business. After Mr. Baez gave an explanation of his business, Mr. Haley asked where Mr. Baez picks up the ice cream. It was explained that it is picked up from a distributor in Enfield.

Mr. Haley asked how often the product is picked up. Mr. Baez stated that he picks up the product every other day or once a week. Mr. Haley further asked how much product is left on the truck at night, to which Mr. Baez reported that approximately 3,000 lbs. are left. After a question from Mr. Haley, Mr. Baez stated that he just started his business.

Mr. Slegeski commented that the State Business Registry reports the company, SOCHLO, was formed in March 2022. He asked the weight of Mr. Baez's truck, and Mr. Baez responded that it weighs approximately 10,000 lbs. Mr. Slegeski asked about the voltage to the truck and Mr. Baez responded that it is 220.

Mr. Baez remarked that, in his neighborhood, there are approximately four tractor-trailers parked in driveways. He noted that his truck is smaller than his neighbor's RV.

Mr. Ahmed asked if there is noise when the truck is being charged. Mr. Baez reported that it is approximately the same as a home air conditioner.

After a question from Mr. Ahmed, Mr. Baez noted that he and his neighbor have had differences in the past. Currently, in his opinion, the neighbor does not want him in the neighborhood. He relayed some of the issues that have occurred in the past. Mr. Baez reported that he charges the truck for approximately four to five hours each night.

Mr. Stevenson requested clarification of the charging time and how it ceases to run. Mr. Baez stated that he turns it off at approximately 10:00 P.M. and does not run it all night. Mr. Stevenson assumed it only charges from approximately 4:00 P.M. to 10:00 P.M., though he speculated that Mr. Baez would not be able to set a specific timeframe.

Mr. Davis commented that this is a commercial distribution based on the description by the applicant. He also raised the concern that, if the Board planned to approve the variance with a time limit on charging in the evening hours, enforcement does not take place in the evening hours. Additionally, he referred to the Town of Manchester Noise Ordinance.

Mr. Stevenson asked about the hours of the noise ordinance. Mr. Davis could not give the details, though he speculated it is 9:00 P.M. Mr. Stevenson asked who enforces the noise ordinance, to which Mr. Davis replied, "the Manchester Police Department."

After a question from Mr. Stevenson, Mr. Baez stated that his truck complies with noise regulations.

Mr. Stevenson inquired about the class of Mr. Baez's vehicle, to which Mr. Baez replied that it is a small semi-truck.

Mr. Haley requested more information about other locations Mr. Baez has explored for parking his truck. Mr. Baez reported the locations he sought, as far away as Springfield, but stated that he found nothing with electricity.

Mr. Haley asked whether Mr. Baez was aware of the zoning issue when he purchased the truck. Mr. Baez stated that he did not know he couldn't have the truck on his own property and reiterated that there are tractor-trailer trucks parked in his neighborhood.

Mr. Haley explained that a hardship must be presented to the Board. Mr. Baez stated that his hardship is his inability to find a spot to park his vehicle with electricity available.

Mr. Stevenson inquired whether Mr. Baez is a franchisee, which was explained. Mr. Stevenson asked whether there are other individuals in the same situation. Mr. Baez stated that the other individuals have trucks that run on gas compressors.

Mr. Haley asked if Mr. Baez has investigated the option of a freezer where his product could be unloaded at night and reloaded in the morning. Mr. Baez explained the difficulties of that option.

Mr. Slegeski observed that Mr. Baez's business formed on March 1st. He asked how long the truck has been parked on his property. Mr. Slegeski speculated whether Mr. Baez could obtain a rental bay, purchase a freezer, and pick up less product to remedy the situation.

Mr. Baez responded that would not work for him.

Mr. Romny Tejeda, Rocky Hill, introduced himself. He stated that he has visited the property many times and has observed the vehicle noise, which is just air conditioning noise. He has been present when the neighbor complained about other issues. The truck is similar to a pickup truck.

Ms. Linda Templeton, 19 Chester Drive, introduced herself. In her opinion, the air conditioning is not comparable to a home air conditioner. In addition, she does not believe a commercial vehicle belongs in that neighborhood. She acknowledged that she owns an RV but pointed out that it is allowable in Manchester. Ms. Templeton stated that she does not believe the commercial vehicle is acceptable in the area.

Mr. Derek Threats, 698 Center Street, introduced himself. He stated that, though he shares a back yard with Mr. Baez, he cannot hear the truck at all. When speaking with Mr. Baez in close proximity to the truck, he could not hear the truck, noting it sounds like a fan. In his opinion, allowing Mr. Baez to operate his business is good for the community.

Mr. Dale Wagner, 11 Chester Drive, introduced himself, stating that he is friends with Mr. Baez and with Ms. Templeton. He noted that he cannot hear the noise or see the truck from his yard. He stated that he, personally, does not have an issue with the truck.

Ms. Adalgisa Beato, 15 Chester Drive, introduced herself as Mr. Baez's wife. She agreed that there have been problems in the past with Ms. Templeton. They have never had any noise complaints since moving into their home. She concurred with the statement regarding the number of tractor-trailer trucks in the neighborhood.

Mr. Davis mentioned that a Notice of Violation letter was initially sent on May 6, 2022. He added that there was nothing sent out regarding noise and noted that he never heard the vehicle. Zoning Enforcement does hear complaints on a regular basis, and they encourage individuals to seek out industrial properties and to speak with the owner regarding electricity and storage of the vehicle. He added that this is not a unique situation and, if there are other properties with tractor-trailers, the Town would be happy to look at them.

Ms. Johanna Tejeda, 45 Fern Street, Rocky Hill, reported that she has been at the home and has never heard any noise louder than a dog barking or an RV running. In her opinion, this is more of a personal issue, not a vehicle issue.

Ms. Pilla read a comment from Mr. Robert Jones, 25 Chester Street:

“Zoning Board Members: I am writing in concern of the application. I live in the neighborhood in question and have many concerns about the future of this quiet neighborhood. My wife and I have lived in this neighborhood since 1998 and raised our three children here. This is a very quiet place to live, and this truck causes a continuous droning noise that is disturbing to the neighbors. The additional commercial traffic will have an impact on people that like to walk through and the kids that play in the neighborhood. This truck has also had a couple of major oil spills in the driveway. The owner proceeded to take his hose and rinse the oil down his driveway into the street. This is not an environmentally friendly means of cleaning up an oil spill. I also have concerns about the future of the area if we allow this truck in; who will be next? It’s bad enough we have a trucking company being run out of a house on Thomas Drive. We also have someone running an illegal repair service out of their house on Olcott Street. That house has a back yard full of junk cars and trucks. I have nothing against someone starting a business, but commercial vehicles have no place in a neighborhood. Please think twice about allowing this application to go through. I will not be able to attend the meeting tonight due to having to take my daughter to soccer practice.”

Mr. Baez reported that Mr. Jones has made disrespectful comments to him in the past.

Ms. Pilla reported no Staff technical comments on the application. There was an unanswered question from Mr. Davis, who asked whether the truck can be parked in the garage and whether the applicant has considered an alternative garage.

Mr. Baez reported that his garage needs to be rebuilt and he speculated about his neighbor’s reaction to reconstructing the entire garage. The truck will not fit in the current garage.

Mr. Haley asked Staff, if the Board were to deny the application, whether there would be a timeframe for Mr. Baez to find a location.

Mr. Davis explained that, if the application were denied, as with any other application in such a proceeding, the goal is to encourage compliance and is not punitive in any nature. As long as the applicant was moving forward with coming into compliance, Zoning would allow a reasonable amount of time. He expressed the hope that it would be quicker than this process has been thus far.

Mr. Haley asked whether the Board could place a time limit on the compliance.

Mr. Stevenson said, if the Board denies the application, there are no conditions on a denial.

Mr. Baez remarked that, if his application is denied, he will have to shut down his business.

The public hearing was closed at 7:50 P.M.

I certify these minutes were adopted on the following date:

March 29, 2023
Date

James Stevenson, Chair

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