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Thursday meeting may decide Great Barrington trucking company issues

Posted Wednesday, April 25, 2018 3:12 pm

By Kristin Palpini, The Berkshire Eagle

GREAT BARRINGTON — The fate of the Blue Hills neighborhood and GJO, a trucking company located there, will likely be resolved Thursday night — members of the deciding board are running out of time.

Meanwhile, GJO's owner Gary O'Brien said, through his lawyer, that he is willing to make some concessions to address neighbor complaints about loud noise at all hours of the day and night.

On Tuesday night the Zoning Board of Appeals voted to continue the public hearing to appeal a cease-and-desist order, aimed at activities on O'Brien's 11 Roger Road property, to Thursday, April 26, 7:30 p.m., at the Claire Teague Senior Center on South Main Street.

Board members said they want to make a decision on the appeal before the May 15 town election, which could usher in new board members who need to be educated about the technical and legal arguments that have been presented so far. When board member Kathy Kotleski mentioned the impact of the election and potential to extend the hearing for even longer, colleagues shook their heads "no" while many of those in the audience of about 30 people shouted "No!" or groaned. There are two seats on the seven-member Zoning Board of Appeals up for election this year.

"I think you have enough information to make a decision now," said Michael Andelman of Blue Hill Road. In two months, Andelman noted more than 1,000 trips past his home by highway-grade snowplows, sanders, dump trucks and landscaping vehicles he ascribes to O'Brien. Several area residents said the

noise, diesel fumes and rumbling vibrations created by GJO activity is waking them up regularly in the middle of the night and ruining the area's peace and quiet.

Zoning Board of Appeals Vice Chairwoman Carolyn Ivory said the board would need time to obtain and review the police records as well as any affidavits residents may want to submit. Paul Feldman, O'Brien's lawyer, said he can refute every complaint made to police and will do so if necessary at the next hearing.

Among the proposed concessions O'Brien submitted to the Zoning Board of Appeals for review are a written and enforceable promise to keep heavy trucks from leaving the property earlier than 5 a.m. or later than 9 p.m. He is also willing to deploy his four highway-grade snow plows from another location. O'Brien would still bring the industrial vehicles onto the property for maintenance and would store them there during the off-season (around May-November).

"We are not waiving our rights in any way, shape or form for what GJO does at the property — what he does is consistent and lawful with that property," Feldman said. The concessions are "a way to resolve this."

Paul Jones, of Blue Hill Road, said he was unimpressed by the concessions noting that the November cease-and-desist order O'Brien received from Great Barrington Building Inspector Edwin May wasn't the first. Not long after O'Brien purchased the property in 2010, May issued a cease-and-desist order against him and issued violation tickets. GJO appealed the order to the Zoning Board, and won in court in 2013. There are residents who say the court decision was unfair, however, because the building inspector had to personally argue his case against Feldman.

"In 2011, it could have gone the other way if we were represented properly," Jones said. "We have to lose our sleep so [O'Brien] can make money."

To prepare for the Thursday meeting, in addition to reviewing a packet of documents regarding the property, excise taxes, and business history, as well as new affidavits filed by Feldman, the board will read over neighbor complaints to police on the "noise and pollution" at GJO.

Background

The crux of this conflict dates to 1929, when a trucking and waste-hauling business was established on Roger Road before the town had zoning bylaws that set conditions for where businesses and residential units could go. The town called the parcel a "nonconforming" lot and grandfathered Roger Trucking into the residential zone. The clause allows for the operation of the business there — but only that one type of business.

Disputes over whether the trucking company was still the same type of business came to a head in 1996, when the town came to a written agreement with then-property owner Leamon Roger regarding what can and cannot be done on the lot. The agreement stays with the land, regardless of owner, and is terminated if the property is abandoned or ceases to be used as a trucking company.

Years later, neighbors are bringing a complaint against O'Brien similar to the one they brought against Roger: They say O'Brien's trucking business has grown beyond the scope of what is allowed at the property and therefore must be reined in by the building inspector. Paul Feldman, O'Brien's lawyer, said O'Brien is running the same business as the enterprises previously operated at that site.

The November order called for a halt of all "trucking operations" at O'Brien's company, GJO, as well as transfer and dumping at the site. GJO is a trucking business. O'Brien has eight trucks and keeps highway-grade snowplows under state contract on the property.

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Berkshire Medical Center keeps nurse contract offer on table; new talks set for May (</stories/hospital-keeps-nurse-contract-offer-on-table-new-talks-set-for-may,538177>)

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Lee man sentenced to 1 month in jail, 15-year license loss in vehicular homicide (</stories/lee-man-sentenced-to-1-month-in-jail-15-year-license-loss-in-vehicular-homicide,538169>)

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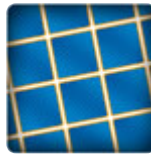


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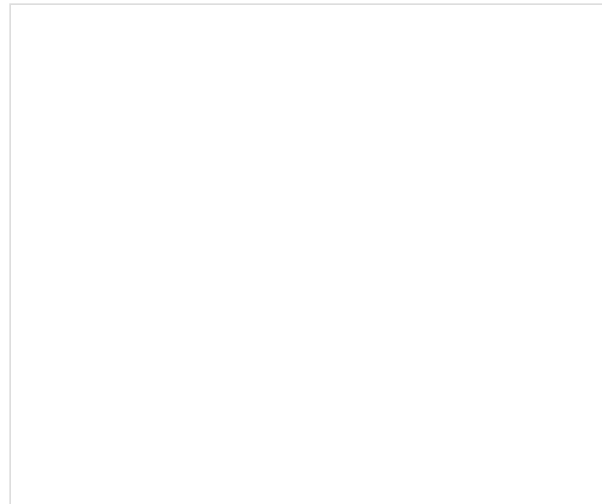
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3	Clint Bowyer	3
4	Kevin Harvick	4
5	Brad Keselowski	5

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NASCAR (<http://racing.ap.org/berkshireagle/news>)

Matt Kenseth returning to NASCAR with Roush Fenway Racing

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Kyle Busch pulls away at Richmond for 3rd Cup win a row

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The Latest: Kyle Busch pulls away to win at Richmond

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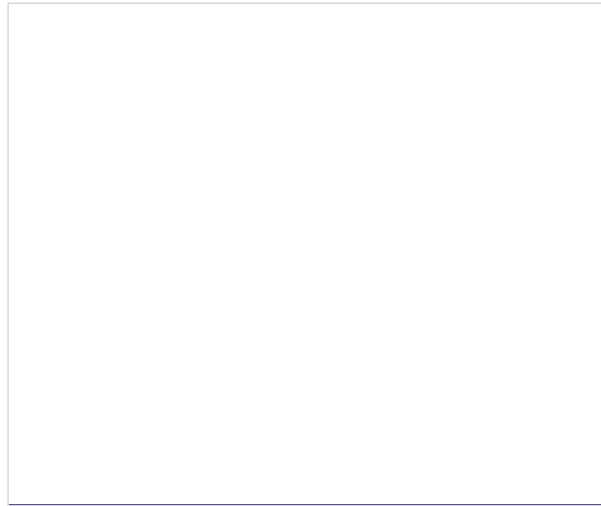
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Hoosac Valley softball team erupts for six runs in second to top Wahconah (</stories/hoosac-valley-softball-team-erupts-for-six-runs-in-second-to-top-wahconah,538191>)

3 Pittsfield softball players make college commitments during signing ceremony at PHS (</stories/3-pittsfield-softball-players-make-college-commitments-during-signing-ceremony-at-phs,538180>)

The new Warriors: Wahconah Unified track and field team hosts inaugural home meet against South Hadley (</stories/the-new-warriors-wahconah-unified-track-and-field-team-hosts-inaugural-home-meet-against-south,538179>)

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Six displaced by intense Adams fire; 3 pets killed (/stories/six-displaced-by-intense-adams-fire-3-pets-killed,538141)

County Fare: Lee's little pink cabins are no more (/stories/county-fare-lees-little-pink-cabins-are-no-more,537949)

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