



MUNICIPALITY OF SKAGWAY, ALASKA
BOARD OF APPEALS MEETING

August 16, 2023
Page 1 of 3

1. **Call to Order:**

Mayor Cremata called the meeting to order at 7:00 p.m.

2. **Roll Call:**

Present: Mayor: Andrew Cremata **Assembly Members:** Jay Burnham, Sam Bass, Orion Hanson, Alex Weddell, Deb Potter, Dan Henry

Absent:

3. **Proof of Notice:**

The Borough Clerk indicated that 'Proof of Notice' is printed on the back of the agenda.

4. **Declarations:**

A. **Conflict of Interest**

There was no conflict of interest declared.

B. **Statement of Contact by Assemblymembers**

Assemblymember Hanson indicated that he participated in the Planning & Zoning hearing as the Ex-Officio member.

Assemblymember Bass indicated that he spoke to Applicant Stovall for a few minutes about the appeal.

5. **Public Hearing of Paul Nils Davis & Earl H. Stovall Jr., Appeal of Planning & Zoning Commission Decision re: Conditional Use Permit Application No. 23-42:**

Public Hearing

Appellants Nils Davis and Earl Stovall were present to represent their application.

Appellant Davis indicated that they received a letter stating their need to apply for a conditional use permit to be able to wash their vehicles in their driveway. They were under the impression that they just did not have the correct permit and it was as easy as filling out the application and attending the meeting. However, when they attended the Planning and Zoning hearing it was clear they had no intention of granting their application because it is in a residential zone. They have been washing the cars at that location for the last five years, and they have never had a problem. The Municipality has been billing them for extra water usage at that location, they own the lot, and others—including their competitors—wash vehicles in the street. They feel they are being targeted and it is not fair, so they are appealing the decision and ask that they be allowed to continue washing their vehicles as before.

Assemblymember Bass indicated that Skagway is small and it can be difficult to conduct business here. He asked if the lot was a commercial lot.

Appellant Davis indicated that it is a residential lot; however, following the Planning & Zoning hearing they sought some legal advice and were told that the lot next to their residential lot is a commercial lot. They have a tax assessment that states it is commercial and has a history of having commercial businesses there, such as a flower shop and auto garage. The storage units next door is also commercial. The lot does not have access to water, and their driveway is located 30-feet from there, so they would like to continue to wash the vehicles in the driveway.

Assemblymember Hanson indicated that the code cannot list every allowable use. With the season so close to ending, and the nature of their reservation-based business, it would put undue hardship to uphold the Planning and Zoning decision.

Assemblymember Potter indicated that the vehicles are not being parked on the street.

Appellant Davis indicated that if the Planning and Zoning decision was upheld, they would have to cancel over 100 reservations and lose revenue. Upset customers could even complain to the city.

Assemblymember Bass indicated that he would like to know if the appellant's vacant lot was commercial, as they claimed.

Permitting Official Fairbanks indicated that nothing is zoned "commercial"; the zones that are not residential are: business general, industrial, and industrial light. Washing of commercial vehicles is allowed in those zones; however, all of block 9, including the vacant lot, is in the residential general zone where washing is not allowed.

The Public Hearing was closed.

6. Board of Appeals Decision on Appeal of Planning & Zoning Commission Decision:

Main Motion/Second: Potter/Weddell to approve the Davis/Stovall conditional use permit through October 2024.

Assemblymember Burnham indicated that he is not opposed to granting this conditional use, but he is opposed to allowing others to wash commercial vehicles in residential zones without coming up with a solution after a set amount of time. The Municipality should start enforcing these rules or change code so that it is legal.

Assemblymember Bass indicated that while he does agree with Planning and Zoning's determination, the appellate has been operating this way for five years and it would be a burden for them to change now. Now that they are aware of the issue, he is in favor of granting the conditional use permit until the end of October 2023 to transition into another place to wash the vehicles.

Borough Clerk Burnham indicated that the Board of Appeals is sitting as the Planning & Zoning Commission, and approving a conditional use requires review of the four findings of fact.

Assemblymember Hanson indicated what the four findings of fact are, going through them one by one as Planning and Zoning does to approve a conditional use permit:

- He does not believe that it is a hazard to public health, safety, or welfare.
- There is merit to the additional vehicles in a residential zone having an impact on the neighboring properties.
- If code is an officially adopted plan, then it would not be in harmony with it; however, code cannot specify every single allowable commercial operation in a residential zone.
- It is debatable if it would substantially decrease the value or be out of harmony with neighboring properties.

Secondary Motion/Second: Weddell/Bass to amend the main motion from the end of October 2024 to the end of October 2023.

The Secondary Motion passed by roll call vote, 6 yes, 0 no, 0 absent.

Secondary Motion/Second: Bass/Weddell to amend the motion to reverse the findings of fact.

Assemblymember Burnham indicated that on the surface it may not seem to affect the public health, but that would depend on what kind of soap is being used, where the dirty water is running off to, and whether harmful things like lead are being picked up as they drive the highway and are now being washed off into our community. He is in agreement to let the appellants finish out the season; however, he does not think it is a good idea to change the findings of fact that the Planning and Zoning Commission agreed upon.

The Secondary Motion failed by roll call vote, 3 yes, 4 no, 0 absent; with Assemblymembers Burnham, Hanson, and Henry dissenting, and Mayor Cremata breaking the tie by voting no.

The Main Motion passed by roll call vote, 6 yes, 0 no, 0 absent.

7. **Adjournment:**

With no more business on the agenda, Mayor Cremata adjourned the Board of Appeals meeting of August 16, 2023 at 8:00 p.m.

Andrew Cremata, Mayor

ATTEST:

Steve Burnham Jr., Borough Clerk

(SEAL)