

**Board of Selectmen
Meeting Minutes
Wednesday, May 10, 2023
Approved**



1) Open Meeting

Chair Delaney called the meeting to order at 6 pm. Board members present: Jim Delaney, Roland Carter, Dana Swenson.

Others present included: Town Counsel Matt Serge of Drummond Woodsum, Town Administrator Kimberley Edelmann, Land Use / Planning / Zoning Administrator Pat Moyer, and over 25 members of the public.

Chairman Delaney explained that the selectboard would be discussing the licensing of the junk yard business. There would be no discussion about zoning. At the end of the presentations by the applicants, members of the public would be given 2 minutes each to speak, and then all discussion would be concluded.

2) Locke Junk Yard

a. License to Operate - Locke

David Howard from Alfano Law Office, PLLC, representing James A. Locke, addressed the selectboard. He explained that Mr. Locke, current owner of the property at 153 Main Street, Tax Map 19-554-114 in the Village District, was applying for a license to operate a Motor Vehicle Salvage Yard per RSA 236:111 through 236:129.

Mr. Howard said that Mr. Locke submitted an application to the Town on April 13.

Mr. Howard explained that the application before the selectboard was about the suitability of Mr. Locke personally as operator of the junk yard. He recognized that there were other ancillary issues that could come up, but that has to do with the property. However, the property is already established as a junk yard and that is not what is being discussed.

Mr. Howard explained that per RSA 236:117, for the license, there were three criteria that the selectboard must consider:

1. Criminal record history regarding any type of larceny or receiving of stolen goods. Mr. Howard reported that Mr. Locke has a clear record.
2. Mr. Locke's ability to comply with the fencing requirements. Mr. Howard noted that Mr. Locke's property has a compliant 6 foot fencing to block the view of the activities.
3. Mr. Locke's ability to comply with NH DES's best management practices, providing self-certification of compliance. Mr. Howard reported that Mr. Locke is 100% in compliance.

Mr. Howard asked that the selectboard approve a license from April 1, 2023 to March 31, 2024.

Mr. Howard shared that Mr. Locke was under a Purchase and Sale Agreement to sell the property which was conditional upon another license being approved for the buyer. Mr. Howard was not representing the buyer; only Mr. Locke. He noted that when the purchase was complete, Mr. Locke's license would be terminated.

Mr. Howard explained that when the property did change owners, the property would still be allowed to operate as a junk yard as it had been since 1936. The characteristic of the property is "grandfathered". He reiterated that the selectboard was only considering the license, not the use of the property. For the buyers, the selectboard needed to consider the suitability of the buyers for the license. The buyer was looking for their license to be provisionally approved prior to completion of the sale.

Mr. Howard noted that if James Locke's father were present, they would be talking about an annual renewal of the license, not a license for the son.

Mr. Howard explained that for the buyer, the same 3 criteria apply and that the buyer meets all three.

Mr. Howard said he had spoken with NH DES about the application. He said NH DES does not issue certificates for Best Management Practices (BMP). It was a self auditing system.

Mr. Howard explained they were seeking a license for Mr. Locke and then a provisional license for the buyer which would go into effect when the property changed hands. He reiterated that the characteristic of the property being a junk yard was established, "grandfathered", legally referred to as a preexisting nonconforming use.

Selectman Swenson asked when the most recent BPM had been submitted. Mr. Howard believed it was around April 13. A US mail copy may have arrived a few days later.

Selectman Swenson asked if the buyer had held a license in the past. It was confirmed that he had a licensed salvage yard in Massachusetts.

b. Provisional License to Operate - Luiz Vieira

Mr. Howard explained that the attorney for the buyer had planned to attend, but did not make it to the meeting. Mr. Howard said he had been in discussions with that attorney and, in his opinion, all of the license criteria was met.

Realtor Heidi Walton of Walton Realty introduced the buyers, Luiz Vieira and Flaviano Dosanjós. She noted that they own a salvage yard in Massachusetts, Angel's Auto Salvage.

Selectman Swenson asked if Massachusetts had a similar level of "Best Management Practices" scrutiny. Mr. Dosanjós confirmed that they held a Class III license in Massachusetts. In Andover, they only planned to pay cars and sell parts. When they were done with the cars, they would be picked up and hauled to Boston or Rhode Island for shredding.

Selectman Swenson asked if they had any outstanding complaints, or noise issues. The applicants said they were open from 8 am to 5 pm. There was not a lot of noise. They used a loader machine, quieter than the older machines. They said they would be flexible and talk to any neighbors. They did not expect to bring in a lot of traffic.

Selectman Swenson asked how they handled hazardous waste. Mr. Dosanjós explained that they use Boston Green and fill special containers for pickup. Antifreeze, freon, and so on have to be collected, recorded, and properly disposed of. Massachusetts inspects the records about where waste is sent, where cars are sent.

Pat Moyer asked how long they had been running a salvage yard in Massachusetts. Mr. Vieira said he was new at it. Mr. Dosanjós explained that he and Mr. Vieira were very good friends, like cousins, and that he had been in the business for 15 years and had been running his own yard for 6 or 7 years.

Selectman Swenson asked whose name the license would be in. The applicants said it would be in Mr. Vieira's name.

Selectman Carter asked if the business would be a recycling yard. Mr. Dosanjós said it would not be a parts yard, not a recycling yard. He added that recycling yards make a lot of mess. They were going to be selling car parts. Customers would call, looking for a specific part like a door. After a few months, the car would go to a shredder.

c. Public Comments

Chair Delaney said he had no questions and invited the public to ask any questions they had.

Ken Wells asked if the business needed a certificate of approval regarding use of the location. Selectman Swenson answered that the certificate of appropriateness was grandfathered for the site. Mr. Wells noted that the relative RSA was written after the junkyard was established.

David Howard stated that the property predates the RSA. If the questions was if a certificate was ever issued, that is a different point. That would be an administrative issue for the Town.

Toby Locke pointed out that the business had been in existence since 1910, definitely a preexisting use.

Donna Crisp Duclos asked if a license had been in effect in 2022. The answer was yes. Mr. Locke said it was hanging on the wall at the business. Pat Moyer added that the license was renewed every year.

Jesse Schust, representing the Conservation Commission, provided a letter to Chairman Delaney. Mr. Schust said the commission was most concerned about compliance with the BMP. He also said the commission wanted to be sure the usage of the property in the future would be the same or less than what the prior business was doing, adding that the property was a sensitive site.

A member of the public asked why the license couldn't just be transferred to the new owners. Pat Moyer explained that the RSAs did not allow for that; licenses were not transferable. Licenses were reviewed annually and included a fee. The member of the public expressed concern that money was being taken out of the business's pocket.

Nancy Robart asked how much traffic flow was expected with the new business. Mr. Dosanjios said he would expect only two loads of cars per day. Parts purchased would be delivered out. He didn't expect a lot of customers coming in. Mr. Locke added that his business never had more traffic than Pizza Chef.

Another member of the public asked if traffic concerns were even within the scope of the discussion. It was pointed out that they actually were not.

Ms. Duclos asked if the self certification records were available for the public to view. Chairman Delaney confirmed they were.

Chairman Delaney repeated a comment which was inaudible: By State law, drivers can not back out of a driveway onto a State highway.

d. Decision

Chairman Delaney announced that the selectboard would take a week or two to discuss the application and then reach a decision.

3) Adjournment

There being no further discussion, Chairman Delaney made a **motion** to adjourn. Selectman Swenson **seconded** the motion. The **motion passed** and the meeting was adjourned at 6:38 pm.

Respectfully Submitted,
Kimberley Edelmann
Recording Secretary

These minutes were approved at the
Selectboard meeting on May 25, 2023.