

**ZONING BOARD OF ADJUSTMENT
PROPOSED FINDING & CONDITIONS
171 BRIGHAM HILL ROAD, ESSEX JCT., VT
DECEMBER 2, 2021**

FINDINGS:

- 1) The landowners are Arthur T. & Patricia Fagnant. The property is located at 171 Brigham Hill Road, in the Town of Essex, Chittenden County, State of Vermont (Tax Map 2:017-025-003.) The parcel lies within the Agricultural-Residential (AR) Zoning District and is a conforming lot.
- 2) This is a 41.31-acre lot with 200' of frontage on Brigham Hill Road. The required acreage for the AR zone is 3-acres. The existing driveway is shared as referenced in Volume 688, Pages 657-688 in the Town of Essex Land Records. The parcel is served by private septic and private water. The Town of Essex GIS map shows the parcel contains wetlands located away from the house and barn.
- 3) The application is being reviewed under the *Town of Essex Outside the Village of Essex Junction Official Zoning Regulations, Article IV, Section 4.9 Home Business and Article V, Section 5.7 Conditional Use.*
- 4) The proposal is for a Home Business to operate a pet cremation service by utilizing 800 square feet within the existing 2,280 square foot garage currently being utilized for the storage of equipment, toys, and automobiles.

The applicant's narrative reads in part,

Proposed use and current plan:

I have been researching the need for pet cremation services in the area and find a real need for such service. Currently a large portion of these services go out of state and take a longer time and are more costly. We are requesting approval to take 800sq.ft of existing space to install a pet crematorium housed within our building.

*US Cremation Equipment Model: Sierra300
This unit is fully automated and has a fully sealed chamber allowing for a complete, odorless and smokeless operation. It comes with a low-profile stack so not to take away from the surroundings. (You will not see this regardless because of location), My shop is not visible from the road during the summer and only slightly during the winter.*

It is my intention to operate this equipment during normal business hours 8am to 430pm

Mon thru Fri once up and running as needed.

This machine will be run by myself and one other person of which we both will be trained and certified.

It is my intention to go to client/veterinarian direct and receive their pet for said service so as not to add traffic or congestion to the area. We will not be onsite advertising nor receiving pets from clients on site. In short, the client will contact us and we will go receive their pet, bring it to our shop, perform the cremation and return remains to the client.

We will receive training and certification directly from the manufacturer on the equipment (Sierra 300) as well as applying for and receiving any and all certification required from the State of Vermont and the EPA in order to operate in a clean, safe and healthy manner.

Due to the Fire Chief's comments on this application, the applicant submitted supplemental written details as follows:

1) We have an existing 2280 sq. ft. detached garage with 12ft ceilings and an open floor plan.

2) This building has 3 entrances to it, 1 man door on NE corner, 1 10x10 OHD on N end of building, and 1 8x8 OHD on ES corner of building

3) We are seeking to place a gas fired kiln in the back right corner "SW" of the space and using about 128sq.ft for machine.

4) The US Cremation Sierra 300 unit is UL listed and certified to EPA standards and is smokeless and odorless.

5) We will be placing 2-1000gal LP tanks on south end of building on a pad and placing regulator on SW corner of building before entering the building.

6) If a supplemental air intake is needed for the machine, then it will be placed on the WS corner of the building.

7) There is no water service to said building so wastewater and Storm water need not be a concern.

8) This equipment will be installed per industry standards along with any and all Local, State, and Federal permits required.

9) We will be going to our clients to pick-up pets so not to add additional traffic to both road and driveway.

10) We will not be advertising on our property so no signage will be requested.

5) The following documents were submitted for review:

- Tax Map 17, outlining his lot and where the location of the house and garage, as well as an ortho view of the premises;
- Hand-drawn floor plan of garage showing the area for the proposed use;

- Sample pictures of Random-Load Pet Cremation Systems;
 - Information regarding Random-Load Pet Cremation Systems;
 - Animal Cremation Chamber Specification Model Sierra 300/75-300; and
 - An example of the State Air Pollution Control Permit Application Requirements.
- 6) Pursuant to state statute a ‘Notice of Hearing’ was provided to the applicant for posting on the property.
- 7) The abutting property owners were notified of this meeting by certified mail.
- 8) The applicants were mailed a copy of this Staff Report prior to the meeting.
- 9) Arthur (Tim) Fagnant spoke on behalf of this application. No one from the public commented on this application OR _____provided comments on this application:
- 10) In an email dated 11/22/2021, Public Works said, *The Town of Essex Public Works Department has no concerns or comments regarding this application.*
- 11) In an email dated 11/10/2021, the Recreation Director said, *EPR has no comments/concerns with this request.*
- 12) In an email dated 11/10/2021, the Police Chief said, *PD has no comments.*
- 13) In an email dated 11/18/2021, the Fire Chief said,

The Fire Department requests further detail on this project.

If this unit is gas fired, we will need a drawing on the location of the gas tank and associated regulators. Those will need to be properly marked and located away from the kiln so that they can be accessed and shut down in an emergency. If the gas tank is going to be buried, they will need to install some protection from snowplows as well as to mark the tank in winter months.

The Kiln will need an electrical disconnect located (by National Electrical Code) within a reasonable distance from the unit and clearly marked for emergencies.

Because they’ll be installing a kiln for the cremation services, they’ll need to get a permit from the State Fire Marshal.

Please confirm this information and provide a more detailed drawing so we can

determine if further comments are needed.

In a subsequent email dated 11/22/2021, the Fire Chief said,

Thanks for sending that information. My comments about the gas service from my previous email will apply then please. From reviewing the code, they should also reach out to the State FM about a permit. The code is not exactly clear but seems to lean towards they will need a State permit.

14) Pursuant to Section 4.9(C), no home business shall be approved that:

- (1) Changes the outside appearance of the dwelling in such a way as to be out of character with the neighborhood or is visible from the street or adjoining properties.

[The ZBA finds that that the applicant's plan is to utilize an area within the existing garage. The addition of two gas tanks to be located outside the garage [does/does not] change the outside appearance of the property.]

- (2) Comprises an area within the existing dwelling or accessory building, or in a combination of the two, that either exceeds twenty five percent (25%) of the living area of the dwelling or exceeds a maximum of 500 square feet except that in the CTR and R-B Districts the home business may occupy up to fifty percent (50%) of the living area or up to 1,000 square feet.

[The ZBA finds that the application proposes to utilize 800 sq. ft. and the applicant would be required to pull this back to utilize a maximum of 500 square feet.]

- (3) Employs on the premises more than one full – time employee other than household members, or part – time employees who are not household members and whose combined time equals more than forty (40) hours per week.

[The ZBA finds that the landowner will be the only full-time employee however, will employ one additional employee. The applicant agrees that, during times of 2 employees being on the premises, a combined 40 hours will not be exceeded between the two employees.]

- (4) Does not provide adequate off-street parking for all employees in parking areas designed to be consistent with the character of the neighborhood.

[The ZBA finds that no customers will be entering onto the premises therefore, parking is not an issue.]

- (5) Generates sewerage or water use which places an undue burden on the existing sewage disposal system or water source.

[The ZBA finds that the proposed use will not require water or sewer services.]

- (6) Generates traffic which places an undue burden (either in capacity or congestion) on existing public or private roads.

[The ZBA finds that the proposed use will not generate public traffic.]

- (7) Does not provide off-street parking spaces in number and location as reviewed and approved by the Board of Adjustment.

[The ZBA finds that the proposed use will not require the need for parking.]

- (8) Creates a hazard to person or property or results in electrical disturbance, objectionable noise, vibration, smoke, dust, odors, heat, excessive glare, or other nuisance.

[The ZBA finds that the proposed cremation system Model Sierra-300 utilizes a self-contained system that is smokeless and odorless; will meet or exceed Nationally accepted incinerator construction standards as established per the Incinerator Institute of America publication guidelines; the primary chamber will not exceed 60% of total furnace volume; provides high temperature refractory construction with air-cooled walls to prevent excessive heat radiation; and provides exhaust gas temperature reduction.]

- (9) Results in outside storage or display of materials.

[The ZBA finds that two LP gas tanks will be placed upon a concrete pad, along with a gas regulator will be proposed outside the garage. No outdoor storage or display of materials is proposed with the application.]

15) Pursuant to Section 5.7 (Conditional Use) of the Zoning Regulations, **the applicant** provided the following response:

1. *No new demands for community services or facilities will be needed. Road maintenance, Police and Emergency services already being provided since purchase will remain the only town services used.*
2. *Character of the area affected: The proposed request will not change the ascetics, road frontage, or existing land use in any way. The building exists already.*
3. *Effect on traffic on roads and highways in the vicinity: There is no projected change/impact on the traffic of Brigham Hill Rd by the current request for use expected since I will be going to receive client's pets and not having them come to the facility as stated above earlier.*
4. *Bylaws and Ordinances: No violation of existing bylaws and ordinances noted.*
5. *Conformance with Town Plan and Community Character: No changes in conformance or impact on community character is projected.*

16) Pursuant to Section 5.7 (Conditional Use) of the Zoning Regulations, the Zoning Board finds the following:

- a. There will be no adverse effect on the capacity of the existing or planned community facilities;
- b. There will be no adverse effect on the character of the area/neighborhood affected;
- c. There will be no adverse effect on traffic on roads and highways in the vicinity;
- d. The proposed use will be in compliance with the bylaws now in effect;
- e. The proposed use will not adversely affect utilization of renewable energy resources;
- f. The proposed use is in conformance with the Town Plan;
- g. The proposed use does not require site plan review; and
- h. The proposed use is in conformance with community character.

CONDITIONS:

1. This approval is granted for the operation of a pet crematory, using a total of 500 square feet within an existing garage; and for 1 full-time or 2 part-time employees that does not exceed 40 total combined hours.
2. The hours of operation shall be Monday – Friday, 8:00 a.m. to 4:30 p.m.
3. The applicant shall obtain a Use Permit and schedule a Certificate of Occupancy inspection prior to starting the business.
4. Prior to the issuance of a Certificate of Occupancy, the applicant shall secure and provide a copy of any/all state permit that may result from this approval.
5. The gas tanks and associated regulators shall be properly marked and located away from the kiln so that they can be accessed and shut down in an emergency.
6. The Kiln shall provide an electrical disconnect (by National Electrical Code) located within a reasonable distance from the unit and clearly marked for emergencies.
7. The approval shall terminate upon relocation by the applicant and shall neither remain with the subsequent occupant of the dwelling nor transfer to a new location with the original applicant.
8. By acceptance of the conditions of this approval without appeal, the applicant confirms and agrees for himself and all assigns and successors in interest that the conditions of this approval shall run with the land and the land uses herein permitted, and will be binding upon and enforceable against the applicant and all assigns and successors in interest.