

CITY OF TORRINGTON



Land Use Office
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To: Torrington Zoning Board of Appeals
From: Nate Nardi-Cyrus, Zoning Enforcement Officer *NNC*
Date: December 11, 2023
RE: ZEO Decision Appeal – 441 Oak Avenue

On 10/23/23, under my authority as the Zoning Enforcement Officer for the City of Torrington, I issued a Notice of Violation to Mr. Gary Hatstat, owner of 441 Oak Avenue in Torrington, CT, with a determination that his residence within a legal pre-existing, non-conforming commercial garage was grounds for extinguishment of the “grandfathered” commercial garage use in favor of the conforming residential use. This notice requires him to obtain the necessary permits to legally convert the building into a residence and discontinue his current commercial use of the property. This includes the removal of inoperable and unregistered vehicles and associated materials classified as “junk” being stored outside of an enclosed structure.

In land use law, property uses that existed prior to the enactment of zoning regulations (effective date in Torrington 12/24/57), or specific sections of those regulations that have since been amended, are allowed as legal pre-existing non-conforming uses. In lay terms, this is often called “grandfathering.” However, if a use is abandoned, the property loses that status and must conform to the current zoning code. There is an abundance of case law which clarifies what constitutes an abandonment. Kement Family Ltd. P’ship v. E. Windsor Zoning Board of Appeals, CV-05-4001820-S, 2007 Conn. Super. LEXIS 88 (January 10, 2007) established that a use abandonment does not have to be “voluntary,” but can be determined based on the property owners use of the site. Because the garage is not divided into multiple units, two uses cannot exist simultaneously and therefore the non-conforming commercial garage use must be extinguished in favor of the permitted residential use of the property due to the demonstrated residential use of the property.

On 11/17/23, Mr. Hatstat filed an appeal of this decision with our office, on the grounds that he does not reside at that address and therefore has not abandoned the commercial garage use (established in 1950 according to assessor records) of the property.

The following is a timeline of Land Use Department enforcement actions, with evidence used to support the determination that Mr. Hatstat has resided at 441 Oak Ave on multiple occasions over the years. Bold sections indicate formal notices sent to Mr. Hatstat from our department. Note that only one instance of Mr. Hatstat residing at 441 Oak Ave is necessary to consider the pre-existing non-conforming use abandoned:

- 10/20/20 – Original complaint re: illegal use of commercial garage as residence
- 11/2/20 – Deputy fire marshal inspection record... “Gary did say the building department was here and I told him he needs to go to zoning to change the occupancy because he stays here. He did say that may happen in the near future.”
- **11/2/20 – Notice of possible blight violation – sent to 32 Overlook Court**
- **11/25/20 – Notice of possible blight violation – sent to 441 Oak Ave, where formally received.**
- **12/28/20 –1st Zoning Notice of Violation re: illegal use of commercial garage as residence**
- **2/4/21 – Zoning Notice of Violation follow-up.** “If our office determines at any point in the future that you are continuing to use this building as a residence, you will immediately lose your grandfathered zoning use as a commercial garage and will be required to obtain all permits to bring the building up to residential standards.”
- 3/21 – ****Police Report**** Landlord at 32 Overlook Court, Mr. Hatstat’s claimed residence, indicated Mr. Hatstat received mail but did not live there.
- 3/21 - **** Police Report**** police observed futon, woodstove, and space heater at 441 Oak Ave
- 4/11/21 - ****Judicial record**** Arrested for failure to register on sex offender registry. Court case is still pending.
- 11/2021 **** Police Report**** Officer observed driver’s license lists 441 Oak Ave as residence
- 4/11/2023 - ****Superior court decision**** – Mr. Hatstat must vacate his abode at 127 Mundry Road by 4/25/23.
- 5/5/23 – New complaint about illegal use of commercial garage as residence from same complainant in 2020.
- **10/23/23 – Second Zoning Notice of Violation re: abandonment of preexisting non-conforming use in a residential zone**
- 11/17/23 – Appeal from decision of an official from Gary

Conclusion:

Based on the above explanation of legal pre-existing non-conformities, and their abandonment, I consider Mr. Hatstat’s residence at 441 Oak Avenue as a formal abandonment of his legal pre-

existing non-conforming commercial repair use of the property. The most significant evidence demonstrating Mr. Hatstat's residence of the property, after being warned by former ZEO Jeremy Leifert's 2/4/2021 letter, includes:

- A March 2021 police report where the landlord at 32 Overlook Court asserted Mr. Hatstat did not live at him claimed address
- An April 2021 arrest of Mr. Hatstat for violation of his sex offender registry reporting requirement
- A November 2021 police report claiming Mr. Hatstat's valid drivers license showed 441 Oak Avenue as his address
- An April 2023 court order requiring Mr. Hatstat vacate a legal residence at 127 Mundry Road and subsequent May 2023 complaint claiming he was again occupying 441 Oak Ave.
- Multiple consecutive video recordings from June and July 2023 showing Mr. Hatstat staying overnight at his garage and leaving the following morning.
- Mr. Hatstat's Sex Offender Registry (accessed 12/2023) listing his address as homeless in Woodbury, with a secondary address of 441 Oak Avenue.
- The submitted Zoning Decision Appeal Application, only listing 441 Oak Ave as his mailing address with no other addresses listed.
- Neighbor complaints attesting to Mr. Hatstat's residence at 441 Oak Ave
- Mailing address on file from Torrington Tax Collector and Assessor is 441 Oak Ave.
- Police report showing, over the past 2 years, Mr. Hatstat has been observed at 441 Oak Ave at all hours of the day, not just during the night as claimed.
- Police dash cam records showing Mr. Hatstat's vehicles only parked at 441 Oak Ave when not driving.

Cc: Gary Hatstat, Property Owner
Jeremy Leifert, City Planner