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TOWN CLERK ADAMS ZONING BOARD OF APPEALS  
ADAMS MASS. THURSDAY, JUNE 7, 2018

CLERK \_\_\_\_\_ MEETING MINUTES

**MEMBERS PRESENT:** Chairman Peter West, Vice-Chairman Brian Tenczar and Members Francie Riley, Glen Diehl and Jacob Levesque

**MEMBERS ABSENT:** Members Anthony Donovan, Michael Mach and Rob Krzanik

**OTHERS PRESENT:** Interim Town Administrator, Donna Cesan, Wayne V. Piaggi; Carrie Piaggi; Richard Hathaway; David Irland; Barbara Halek; Marilyn J. Bourdon; Alan R. Nuttall; James Leitch; David Roberts; Mark Sebastino; Barrie Wagner; Dawn Karo; Judith Blair; Linda Rapoza; Craig Kuza, Jr.; Dawn Caro; Paula Foye; Rick Ostrowski; Susan Mekdeci; Stephen J. Dadak; Mary Ellen Snow; Building Commissioner Don Torrico and Recording Secretary, Pam Gerry

**CALL TO ORDER:** Chairman West called the meeting to order at 6: 00 P.M.

**Continuance of Application of Cumberland Farms, Inc. for property located at 95 Commercial Street, owned by Carol L. Ostrowski and Al's Service Center, Inc. requesting a Variance under Adams Zoning Bylaws §125-3(B)(2) ; §125-10(1:3,1:4) to allow redevelopment of Al's Service Center and adjacent land for a retail convenience store with gas stations in an R-4 Zoning District.**

**Continuance of Application of Cumberland Farms, Inc. for property located at 95 Commercial Street, owned by Carol L. Ostrowski and Al's Service Center, Inc. requesting a Variance under Zoning Bylaws §125-3(B)(2); §125-10(1:4) to allow a 24 hour retail convenience store in an R-4 Zoning District.**

**Continuance of Application of Cumberland Farms, Inc. for property located at 95 Commercial Street, owned by Carol L. Ostrowski and Al's Service Center, Inc. requesting a Variance under Zoning Bylaws §125-3(B)(2); §125-13H(3)(F) to allow a curb cut greater than 26' in width in an R-4 Zoning District.**

Chairman West addressed the public audience stating that they would have an opportunity to speak to the board members regarding their concerns after they approach the podium. He stated that all parties at the meeting would have the opportunity to speak.

Mr. Reidy, representing Cumberland Farms addressed the board members seeking zoning relief from the Zoning Board of Appeals. He began by stating to the members that the applicant's first Variance request was to extend the existing non-conforming use of the property to allow the proposed use of the new business. He told them that the other requests involved the operation of a 24 hour business and a variance for extended curb cuts at the proposed property to allow for fire trucks and tanker truck activity.

Mr. Reidy told the members that they wanted to take the opportunity to “use this time as a listening session to the greatest extent possible from the neighbors and the town.” He continued to state that they were interested in the best design possible for all parties concerned. Mr. Reidy took a moment to introduce various members involved in the design of the proposed project; Steve Martel, Paul Furgal, and Chuck Meade. He began discussion stating that the proposed project’s design would be a 5275 sq. ft. convenient store with four filling stations for 8 fueling positions. He let them know that they had presented the scope of the project’s redevelopment options before the Board of Selectmen at one of their previous meetings. He mentioned to them that they would have taken other steps in the application process by submitting a Site Plan Review with the Planning Board, as well as appearing before the Conservation Commission prior to the project being finalized. Mr. Reidy wanted the members to know that the Town of Adams would stand to gain revenue in the amount of \$31,000 annually, if the project moved forward.

Chairman West thanked Mr. Reidy for his presentation and asked the board members if they had any questions for the applicant. There were none.

Mr. Reidy emphasized to the board members that the plans for the proposed project can be revised at a later date after hearing the concerns presented by the public audience.

Chairman West wanted Mr. Reidy to be aware that the Zoning Board had received many emails and phone calls regarding traffic and lighting concerns associated with the proposed project. Chairman West stated that the biggest concerns appeared to be related to traffic issues in the vicinity of the proposed project. He continued by stating to Mr. Reidy that the request for a 24 hour operation of the business had “its negatives, as well as positives,” adding that they would be considering the project’s impact on the abutting residents. Mr. Reidy stated that the applicant was prepared to present traffic and lighting schematics during their site plan review.

Paul Furlo, traffic engineer for Cumberland Farms stated that they had conducted a traffic impact study depicting existing and future conditions at the project’s location, as well as a seven year projection for additional traffic. Chairman West asked him if he would be referring to new vehicle traffic at this location while they were accessing the site. Mr. Furlo stated that the study would show new vehicle traffic coming off of Commercial Street to the proposed project site. Mr. Furlo stated that traffic moving north to south on Commercial Street would involve 25% of the vehicle traffic while the remaining traffic would include activity on Elm and Prospect Streets. Chairman West stated to him that based on his personal knowledge of traffic flow on these streets, he would anticipate an accident taking place within 24 hours of opening their business. Mr. Furlo responded to him by stating that over the last five years, the overall traffic and crash data reported an .18 % increase on Commercial and Prospect Street intersections while Elm and Commercial Streets had a ratio of .36% emphasizing that the statistics were under the states average for safety. He demonstrated the traffic flow on the photograph displayed for the board’s review.

Chairman West emphasized to Mr. Furlo that at the corner of Elm and Commercial Streets was a bus stop where a number of children congregate, adding that this intersection was a “traffic nightmare” already. He continued to let him know that Prospect Street was an additional nightmare, as the off street parking was constant while traffic flow through this street was already a narrow area for vehicles to navigate. Mr. Furlo addressed him by stating that the majority of traffic activity would be exiting

Commercial and Prospect Streets. Member Riley emphasized to Mr. Furlo that based on their traffic plans, the residents of Prospect Street would no longer have available parking for their vehicles.

Mr. Martel, Bohler Engineering stated to the board members that tanker trucks would be required to enter and exit onto these streets, continuing to note that an additional curbcut would allow an extra outlet onto Prospect and Commercial Streets. Chairman West stated to him that a tanker truck traveling on Prospect Street would definitely experience difficulties, especially during rush hour.

Vice-Chairman Tenczar addressed Mr. Bohler to ask him if they would consider a different approach to their traffic study. Mr. Bohler responded by letting the board members know that "he will challenge the engineers" to see if there would be another way to orient these traffic constraints.

Chairman West asked the board members if they had any further questions for the applicant.

Member Riley stated that she conducted a site visit to the properties location at different times of the day and she reported to them that the streets pertaining to the development of project were very narrow.

Mr. Reidy stated that they can re-evaluate their plans after hearing the concerns the board members had. Member Riley wanted them to know that the Aladco Laundry across Commercial Street had several shift changes where employees crossed Commercial Street to have lunch at an abutting location to the proposed project. Vice-Chairman Tenczar stated to him that many accidents have occurred over the years near Aladco, adding that vehicles traveling over the hill on Commercial Street heading north have hit an existing pole in the front of their business at various times.

Chairman West asked if there were any further questions for the applicant.

Interim Town Administrator, Donna Cesan wanted the board members to know that the applicant had "spoken to the specifics of the request for relief." She continued to state that the "pervue of this board was to evaluate and determine the relief of certain requirements of the Zoning Board." Ms. Cesan emphasized to them that "they would be asked to determine whether or not there was a substantial hardship in terms of the use."

Chairman West asked the board members if they had reviewed the answers to the Variance criteria questions. Board members reviewed the answers with the applicant.

Mr. Reidy explained to the board members that if they were not granted relief, the project could not move forward which could cause a financial hardship to the current property owner.

He wanted members to know that curbcuts were functional at 30' for commercial sites and the proposed business could not survive without the truck activity accessing the property, therefore they would suffer a financial hardship, as it would not be sustainable without fuel deliveries taking place.

Mr. Reidy stated to members that denying the business a 24 hour operation would create a financial hardship of decreased revenue to the business; however they could attempt to reassess the possibility of hours of operation such as "5:00 a.m. to 12:00 p.m." to control the intrusion to the abutting neighborhood.

Chairman West addressed the applicant by stating that "lost profit" should not be a criterion for a financial hardship. Mr. Reidy responded to him by stating that this would be a hardship to the owner if the property could not undergo redevelopment as a conforming use.

Vice-Chairman Tenczar stated that all three parcels of this proposed project were in a residential district, adding that only one of the parcels had been grandfathered as commercial use. He told them that one of the three sights "has the right to be used commercially and the other two do not." Vice-Chairman Tenczar addressed Mr. Reidy to ask him to tell the board members "what is the hardship pertaining to the property itself?" He answered Mr. Tenczar by stating that the "environmental nature of the existing property would require an environmental cleanup and would remain degraded for who knows how long."

Ms. Cesan stated to the board members they should consider the former use of the existing site as being "obsolete by modern standards," adding that it would be helpful for members to comprehend how a modern day service station would operate by today's standards. Ms. Cesan stated that was where "hardships come in with use variances."

Chairman West asked if there were any further questions for the applicant. There were none.

**Chairman West opened the meeting to public comment.**

He explained to the audience that they were required to stand at the podium by stating their name and address before addressing the board members.

**Dave Roberts, owner of abutting property at 7 Elm Street** addressed the board members to let them know that he had never received public notification of the meeting as an abutter. Mr. Roberts stated to the members that property values in the neighborhood could anticipate a 40% decrease with the development of the proposed Cumberland Farms business. Mr. Roberts told them that the town would not benefit from this component. He expressed concern that the tanker trucks would have difficulty maneuvering on Elm Street. He mentioned to them that he anticipated dumpsters being located within 10' of his property. Mr. Roberts stated to the members that the applicant would not be able to control a 24 hour "hangout" on the Cumberland Farms property. In closing, he informed the members that over the many years that Al's Service Center was in operation, he had never been bothered by the activity at their existing business.

**Wayne Piaggi, a resident of 22 Temple Street** addressed the board members stating that he was a truck driver who transported hazardous material. He told the members that the tanker truck activity proposed by the Cumberland Farms business would be a "rodeo." Mr. Piaggi expressed concern that tanker trucks often times pull over on existing streets before navigating into a business site which can cause crowding in the vicinity of ongoing traffic. Mr. Piaggi stated that continuous tanker truck activity can ruin existing bridges over time and during the winter the trucks could experience problems mounting the hills to access the service station. He told them it "will only get worse." He emphasized to them that an 80,000 lb. truck would not have the capability to navigate quickly, adding that this type of situation could lead to a "logistical nightmare."

**David Irland, owner of abutting property at 30-32 Temple Street** stated to the board members that he had planned to sell his property, but continued to inform them that the sale fell through due to the anticipation of Cumberland Farms locating on 95 Commercial Street. He told them that he will have to reassess his future plans with the existing property.

**Steve Dadak, resident of 19 Temple Street** stated to the members that the applicant would not have the capability of comprehending the activity at the four way intersection as well as the neighbors who travel the various streets surrounding the proposed project on a daily basis. He further noted that the traffic flow in the neighborhood "would dramatically change." He emphasized to the members that this project "was illegal." Chairman West stated that an application submitted to the board members was not illegal. Mr. Dadak responded to him by stating that he was referring to an "illegal zoning variance" by his statement. Mr. Dadak continued to read a report to the members which were submitted on record to the Zoning Board by Mr. Dadak.

**Jim Leitch, a resident of 2 Edmunds Street** addressed the board members to let them know that he and his wife had been abutting neighbors to the existing Cumberland Farms on 46 Commercial Street for approximately 40 years. Mr. Leitch stated to them that they had a "friendly relationship" with the owners. He told the members that if the development at the proposed project's site showed positive impacts in the future, the board should consider that in their decision. He informed them that at the current time there was a bus stop at the existing Cumberland Farms location, as well as truck traffic on Edmunds Street which he wanted them to know was often used to navigate into the parking lot. Mr. Leitch mentioned that there was an "unrestricted curb cut access," which he stated that southbound traffic was currently cutting across Edmunds Street onto the site and avoided accessing Commercial Street. Mr. Leitch stated to them that the new Cumberland Farms would be "1000 % better" than the existing business. In closing, he asked them to consider the positive aspects of the proposed development for the town which could be "one hundred fold down the street." He requested that the board consider this in their decision making process.

**Dawn Karo, a resident of 23 Temple Street** demonstrated to the members on the photo display the location of her property in the neighborhood of the proposed business. She explained to the members that the fact that the town was "looking at Carol's mess" should not give them the right to allow the business to be developed based on this as their hardship. Ms. Caro stated that adjacent to the site children congregate, bus stops are located there, elderly individuals and power chairs are frequently in the area, adding that one child was hit by a vehicle in that area last year. She expressed concern that the proposed business would be like "a mini mall," and would allow the chance for more accidents in the residential area. Ms. Caro emphasized that due to the fact that "Carol pumped gas there in 1980 doesn't mean we can allow gas being pumped there today, referencing MA General Laws and the Adams Zoning Bylaws. She told them that the neighborhood would be subject to dumpster collections and 24-7 tractor trailer truck activity. She explained to member's that Carol's Service Center did not disturb the neighborhood and activity at this property did not occur on a daily basis. Ms. Caro expressed concern that other commercial businesses could be allowed to locate in future residential districts stating that they should not allow this to happen. Ms. Caro wanted the members to know that her insurance company informed her that her premium would increase \$1200.00 more, as well as the loss of 38%-40% value to her home due the property being zoned in a commercial district.

**Linda Rapoza, on behalf of family property at 10 Prospect Street** stated that her apartment abuts an open field with lilac bushes in the neighborhood where her grandchildren often play. She told the

members that she was worried for their safety if the board members allow the business to move forward. Ms. Rapoza stated that "this nice atmosphere would turn into a nightmare."

**Marilyn Bourdon, a resident of 31 Temple Street** addressed the board members to state that she lived on Temple Street for 56 years. She told the members that the proposed Cumberland Farms project would affect her home directly. Ms. Bourdon expressed concern for vehicles exiting Elm Street onto Commercial Street. She emphasized the fact that her and the abutting neighbors have worked hard to maintain their property and they deserved to live in a residential area. Ms. Bourdon stated that the entrance and exit to the Cumberland Farms "would be a total mess," adding that the proposed business would certainly keep the town's police, fire and ambulance services very busy. In closing, she also mentioned that the insurance rates are anticipated to rise for homeowners in the area of this commercial business. Ms. Bourdon told them that they would have to be subject to smelling gas fumes and deal with noise issues, emphasizing to them that the property owners "deserved better than this." Lastly, she pointed out that the proposed business should not be located in an R-4 Residential District.

Chairman West asked if there were any further questions for the board members.

**Steve Dadak, a resident of 19 Temple Street** addressed the board members by referencing the display board regarding traffic issues in the area. Mr. Dadak addressed Mr. Leitch, seated in the audience to ask him if he would feel the same positive sentiments regarding the existing Cumberland Farms if they were located "in his front yard" on Edmunds Street opposed to "his side yard" on Commercial Street. Mr. Leitch had no further comments for the board members.

Chairman West asked the public audience if they had any further questions for the board members.

**Chairman West closed the public meeting for a short recess at 7:40 P.M.**

A motion made by Member Levesque, seconded by Vice-Chairman Tenczar to close the public meeting, passed unanimously.

**Chairman West opened the meeting to the public at 7:50 P.M.**

Attorney Reidy addressed the board members stating that the applicant had many concerns to consider regarding their application requests, which he continued to let the members know that they wanted to continue their application requests to the following month to re-evaluate the proposed plans for their future.

Donna Cesan addressed the board members to ask them if they would approve of staff meeting with the Traffic Commission to provide them with further information regarding the Cumberland Farms project. The Zoning Board agreed that this would be a positive suggestion.

A motion made by Member Levesque, seconded by Member Diehl to continue their three Variance application requests by Cumberland Farms to July 24, 2018 at 6:00 P.M., passed unanimously.

**APPROVAL OF MINUTES:**

A motion made by Vice-Chairman Tenczar, seconded by Member Diehl to accept the minutes of March 27, 2018 as submitted. Chairman West, Vice-Chairman Tenczar and Members Diehl and Levesque voted three (3) in favor. Member Riley abstained from voting.

A motion made by Member Riley, seconded by Member Levesque to accept the minutes of April 10, 2018.

Chairman West asked members if they wanted further discussion on the motion. Member Diehl stated that he would like an amendment to the minutes reading; "from the front of the property to the back of the property" to read; "from the front of the property and the back of the property."

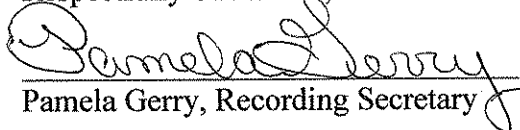
A motion made by Member Riley, seconded by Member Diehl to amend the minutes to read; "from the front of the property and the back of the property." Chairman Peter West and Members Francie Riley, Glen Diehl and Jacob Levesque voted four (4) in favor. Vice-Chairman Brian Tenczar abstained from voting.

The minutes of May 22, 2018 were tabled to the next meeting of July 10, 2018.

**REVIEW MAIL:** Chairman West read a letter submitted to the Zoning Board from Member Michael Mach stating that he would be considering the idea of resigning due to a conflict he had with other commitments, which he stated "was sad" to hear. Chairman West stated that the Board of Selectmen would be notified of this letter, adding that he anticipated a replacement as soon as possible. He stated to the board members that Member Mach's replacement would be a priority.

**ADJOURN:** A motion made by Member Levesque, seconded by Member Diehl to adjourn the meeting at 7:59 P.M., passed unanimously.

Respectfully Submitted,

  
Pamela Gerry, Recording Secretary

8-15-18  
Date