

**TOWN OF CHARLESTOWN
ZONING BOARD OF ADJUSTMENT
APRIL 26, 2016**

Members Present: Andy Jellie (Vice-Chair); Harold Ames, Kenneth Arkell,
Nancy Houghton

Alternates Present: None

Staff Present: David Edkins – Planning and Zoning Administrator

CALL TO ORDER: In the absence of Terri Fisk (Chair), Andy Jellie (Vice-Chair) called the meeting to order at 7:05 PM. He advised that meetings are recorded and asked that anyone wishing to speak identify themselves for the record.

Mr. Jellie pointed out that there are only four ZBA members present; it takes three members to approve an application. Ms. Terri Fisk is not present. Mrs. Clark has the option to request that the meeting be delayed until five members can be present. Mrs. Clark chose to move forward at this meeting.

APPROVAL OF MINUTES OF APRIL 14, 2016:

Mr. Arkell moved to approve the Minutes of the April 14, 2016, meeting as printed. Mrs. Houghton seconded the motion. With four members in favor, the Minutes were approved.

ZBA 02 (V)-2016 – Petition of **Carod Properties** for property located at 122 Main Street wherein a **Variance** pursuant to Section 8.6.7.a.2 of the Zoning Ordinance is requested to permit the display of temporary signs for commercial promotions more than the maximum 10 times per year. Said property is shown on Tax Map 118 as Lot 91 and lies in Zone B (Business).

Mrs. Clark advised that CAROD Properties is the owner of the property with the Sumner House and the Unique Inspirations Salon. One of their major ways to advertise what is going on in the restaurant is to have a sign on the street. There is a Zoning requirement that they cannot have a temporary sandwich board sign out more than 10 times a year/ 7 days at a time. They have been careful to comply with that. However they now have more things going on in the restaurant and people want to know about them. Having something on Route 12 for them to see as they are driving by works well; it has been more beneficial for them than other advertising. Mrs. Clark went before the Planning Board to see if they could have a more permanent sign to fit underneath the Sumner House and Unique Inspirations Salon signs on the corner. Her proposal was for a white sign with changeable black letters, a standard marquee sign, but the PB members discussed various options for the sign. An alternate member commented that he would rather have a sandwich board sign. Someone also noted that the PB did not have that authority to grant a Variance for a sandwich board sign but the ZBA did. At the end of the discussion the PB approved a sign with several conditions. Before she proceeded she thought it might be better to pursue a sandwich board sign without the maximum requirement of 10 times per year.

Mr. Edkins pointed out that Mrs. Clark is almost maxed out of the 10 times a year and it is only April. The PB approved a marquee type sign with changeable letters that would be affixed to the permanent sign but they put some conditions on that. They wanted a brown color sign rather than white so it would be similar to the sign that is there. Also some kind of covered access so the letters for an event could not be moved around or taken; that the advertisement not be posted sooner than 7 days prior to the event; the sign would be for events at the Sumner House only. The PB approved that motion but Mrs. Clark decided to pursue this option. Mrs. Clark added that the custom designed sign would be much more expensive.

Replying to a question from Mr. Arkell, Mr. Edkins clarified that the regulations say – advertising signs for community charitable events may be erected without a permit not more than two weeks in advance of the event and must be removed no later than two days after the event. Signs to be erected more than two weeks prior to the event shall have a permit from the Planning and Zoning Administrator. For commercial promotions Mr. Edkins has to sign off on all of them and they are limited to 10 times a year/ 7 days at a time. Mrs. Clark has been extremely conscientious about getting a permit before putting her signs out. Mrs. Clark has not been advertising all the events but now on Saturday nights they are having different things like music, a comedian or karaoke. They are also advertising that they are now open for breakfast and lunch on weekends as they have had many requests to do so. Mrs. Houghton asked if this would only apply to her. Mr. Edkins said this would be a Variance for this property only. A Variance runs with the land unless there is a condition put in the Variance. The PB approval had a condition that their approval was only for as long as CAROD owned the property.

Mr. Jellie asked if Mrs. Clark is looking for a permanent sandwich board sign allowance. Mrs. Clark would request 52 because they could advertise every week. They might not have special events on every week-end. They would also like to advertise special town-wide events like Old Home Days and the Town-wide Yard Sale Day. Mr. Arkell asked if these sandwich board sign regulations only apply to Main Street. Mr. Edkins said they are town-wide.

Mrs. Francis, Planning Board member, said their primary consideration was that this establishment is on Main Street, the whole Town has an interest in Main Street and it should be appealing for visitors coming to the community. They did not feel the sandwich board type sign would do justice aesthetically to Main Street. There are other establishments on Main Street that would love to be able to have their sandwich board or similar signs outside. If a Variance was approved in this case she could almost guarantee that other establishments would be eager to follow. The PB felt Mrs. Clark would come back with a modified sign. Mr. Edkins clarified that Mrs. Clark's sign was approved but she did not go back before the PB with a modified sign. He was under the impression that Mrs. Clark could come in to see him with her changes to the sign, he would then ask Mrs. Francis to come in to sign the letter of approval but that did not occur.

Mr. Robert Frizzell was not present at this PB meeting but he feels sandwich type board signs are for special occasions like Old Home Days and Town-wide Yard Sale Day. He is afraid they will be misused. It would be much nicer to have a permanent type sign. He thought the PB would look favorably on a sign that Mrs. Clark would come back with.

Mr. Jim Jenkins, an alternate member of the PB, seconded the motion at that meeting and has regretted doing so as there were a number of things he did not approve of. Mrs. Clark's sign met all of their sign requirements yet they proposed many changes including the color. When she brings in certain events (comedians) from Boston she needs to advertise as it is expensive. It is an essential part of her business. As an alternate PB member last week he felt they should just approve what she brought in but no one made that motion. If you look at the Sumner House sign it has a brown background but the Salon sign has a white background.

Mr. Richard Lincourt, PB member, agrees with Mrs. Francis and Mr. Frizzell in that if the ZBA members grant this Variance to CAROD Properties all the other businesses could come in under the same conditions. The ZBA must consider five criteria in granting a Variance and he does not see that this request meets those criteria.

Mrs. Clark asked how many businesses in Town applied for temporary board signs. Mr. Edkins said the only other one is Charlestown House of Pizza when the Ice Cream banner is put out.

Mrs. Houghton asked Mrs. Clark if she prefers the sandwich board sign or the other sign. Mrs. Clark would rather have the sandwich board sign as she feels it would be more flexible but is okay with a not expensive custom designed sign. She wants to make this work for the business. Mr. Edkins and Mrs. Clark have been talking about this for quite some time. He had originally suggested the marquee type sign as an alternative to the sandwich board sign. The discussion continued on the original PB motion and conditions made by the PB.

Mr. Jellie closed the public comment discussion at this time.

The Board reviewed the statutory criteria for a Variance and the applicants' responses as follows:

1. The proposed use would not diminish surrounding property values because: *"It is a commercial district with businesses nearby"*. Mr. Arkell questioned if the sign regulations are the same in all districts. Mr. Edkins replied they are different in the different districts. The temporary sign regulations are town-wide.

2. Granting the Variance would not be contrary to the public interest because: *"It alerts the public to events and services"*. Mr. Ames does not see anything wrong with this. A lot of the business is improved because of the signs. Mr. Jellie felt the Variance could open sandwich board signs up to the other businesses. Mrs. Houghton felt they would all have to come before the ZBA if they wanted a Variance.

3. Owing to special conditions of the property that distinguish it from other properties in the area, literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because: Mrs. Clark chose "A".

- A. **No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:** *"It does not impact other businesses nor has any negative affect on the public"*.

-AND-

The proposed use is a reasonable one because: *“The public is apprised of events happening in a local business on a timely basis.”* Mr. Arkell felt it might impact other businesses because they might be coming in for a Variance.

4. Granting the Variance would do substantial justice because: *“Both the public and businesses would benefit”*. The ZBA members agreed.

5. The proposed use is not contrary to the spirit of the ordinance because: *“It’s a business zone and this would be a business sign”*. Mr. Jellie does not disagree with what Mrs. Clark wrote. There are a lot of businesses that might want a sandwich board sign.

Mr. Arkell asked when the sandwich board sign regulations became effective. Mr. Edkins has been here 17 years and it was here at that time. The PB re-did the Sign Ordinance a few years ago but that provision was in the earlier ordinance as well.

Mrs. Houghton moved that they accept the Variance as submitted with the condition that she does it for 52 weeks and no more than 10 days at a time.

Mr. Ames was not sure about the time; a week would be enough. Mrs. Houghton was agreeable with amending her motion to change the 10 days to 7 days and Mrs. Clark does not have to come in every time she changes it. Seconded by Mr. Ames.

Mr. Arkell would rather see the other sign; it would be more beneficial at least in the winter. She has that approval. Mr. Jellie feels it is contrary to the public interest.

Vote On The Motion: Mr. Ames and Mrs. Houghton were in favor. Mr. Jellie and Mr. Arkell were opposed. The request for a Variance was denied.

Mr. Edkins summarized that Mrs. Clark would need three votes to be in favor of the motion. It is a majority of the full ZBA members. Mrs. Clark might go back to the PB and ask for changes to the conditions.

ADMINISTRATION & CORRESPONDENCE:

Alternate Members: Mr. Edkins is making progress with finding alternate members.

ADJOURNMENT:

Mrs. Houghton moved that the meeting be adjourned. Mr. Ames seconded the motion and, with all in favor, the meeting adjourned at 7:55 PM.

Respectfully submitted,
Regina Borden, Recording Secretary

(**Note:** These are unapproved Minutes. Any corrections will be found in the Minutes of the next ZBA meeting.)