

TOWN OF DEERFIELD
ZONING BOARD OF APPEALS

June 16, 2005

MINUTES

I. Hearing continuance convened at 7:00 p.m., Main Meeting Room, Municipal Offices, 8 Conway Street, So. Deerfield, MA

Present: F. Olszewski (Chair), R. Bohonowicz, L. Grybko, Sr., R. Sadoski, S. Barrett,

Absent: G. Friary, R. Calisewski

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II. Chair Olszewski opened the hearing on the application of Yankee Postman for a special permit, variance or whatever relief is required to apply a 16' by 30" roof sign at 222B Greenfield Road, South Deerfield, MA

The petitioner was invited to present the case. Jane Kuznik, Yankee Postman Manager, explained that Yankee Postman would like to add this roof sign to define the store entrance and to have better visual appearance from the road. The proposed sign will be 16' by 30" with 14" letters. The total square footage will be 40 sq ft. The application included a picture of the roof sign shown in actual scale/size and location/position as it has been proposed.

Since the entrance to the building is on the side, the sign above the entrance is not very visible from the road.

This business is completely separate from the New England Candle Co.

Mr. Bohonowicz asked Ms. Kuznik if this is an existing business or something new. She stated that J.H. Smith Company is the parent company and it has been in business for 60 years as a mail order company. This is the first retail venture as Yankee Postman. The application also included pictures of some of the items that they have for sale. The opening is Friday, June 17, 2005.

Ms. Kuznik was asked who the owner of the company is. She stated that Wayne Settig is the President and Jeane Smith is the owner.

Ms. Kuznik was asked about her hours and days of operation. She stated that right now the store would be open from 10:00 am – 5:00 pm -- 7 days per week. If things go well, they would like to extend the Friday hours to 6:00 pm.

There will not be any lighting on the sign.

Ms. Kuznik stated that both advertisers and marketers recommended this sign since the side entrance sign is not visible from the road. Yankee Postman also

has a sign on the side of the road behind that of New England Candle Co. and another on the gable end of the building.

There were no opponents present.

Hearing closed to the public to render a decision.

The Board questioned whether Yankee Postman needed a Special Permit or a Variance. The Zoning Bylaws, section 3222 (c) states that Roof signs are only allowed by Special Permit.

Mr. Bohonowicz made a motion to grant a special permit to Yankee Postman for a sign to be mounted on the roof as pictured in the application without lighting. The dimensions will be 30" x 16' per application. Mr. Barrett seconded the motion. The vote was unanimous (5-0).

Hearing adjourned.

III. Other Business

The first topic was the public records request letter addressed to Leonard Grybko from David Nixon dated 6/3/2005 regarding the Magical Wings case and the Gochinski/Orloski case. The last paragraph of the letter was read:

"As to your request for records on Gochinski/Orloski v. Town of Deerfield and Miller/Magical Wings v. Town of Deerfield, per the provisions of 950 CMR 32.05(4) I conducted a search to locate the document that most closely matched your description. My search of the Board of Selectmen's office and the Building Inspector's office resulted in no documents that exactly match your request, but I did find the enclosed:

- Agreed upon Judgment, Docket #03-078, and
- Stipulation of Dismissal, Civil Action #FRCV2003-00009."

In Mr. Grybko's opinion, the two documents mentioned above are not worth the paper they are written on. He asked the other board members what should be done about it. He asked if the Board should go to the District Attorney's office to have them check into this. He feels that someone in a legal capacity should check out these documents to see if they are legal or not but he feels they are not legal.

Mr. Grybko stated that the Gochinski/Orloski case didn't go to court. Mr. Grybko also stated that the Board denied their application and then the Gochinski people filed a court proceeding against the Board to appeal their decision. The Board was not informed of anything beyond that, according to Mr. Grybko. The Gochinski/Orloski document shows that the lawyers reached an agreement. The Judge did not rule against the Board and the Board did not vote in favor of the applicant, as clarified by Mr. Sadoski.

Mr. Grybko stated that Magic Wings appealed the Board's decision and the Board never signed off on anything. The conditions listed were voted upon and not passed by a 3-2 vote by the Board.

Next, Mr. Olszewski was asked if he invited Attorney Pepyne to tonight's ZBA hearing as mentioned at the previous hearing. Mr. Olszewski did not extend that invitation.

Mr. Grybko stated that when he is making a public records request or requesting other information, he is representing the Board and therefore, the information obtained should be addressed to the Board instead of to Mr. Grybko directly.

With regards to the previously mentioned two cases, Mr. Grybko wants to know what the purpose of the ZBA is, if the Board has denied a permit only to have it sent off somewhere else to have the decision over-ruled. Mr. Bohonowicz points out nobody else negotiated on behalf of the Board in the Rice Oil case. The Board came back for and did the vote on that case. Mr. Bohonowicz also stated that there is nothing that the Board can do to change the situation with the other two cases except for prevent it from happening in the future.

Mr. Grybko is upset that decisions are being made (or overturned in this case) that the Board knows nothing about. He feels that all decisions should be made on the table.

Mr. Olszewski reminds Mr. Grybko that the applicants have a right to appeal the Board's decisions.

The "process" is what is in question here. All cases should follow the same process all the way through.

Mr. Grybko stated that the Board can over-rule the Building Inspector but the Building Inspector cannot over-rule the Board – only a judge can over-rule the Board's decisions.

A motion was made to request the presence of Attorney Pepyne at the next ZBA meeting. Vote was unanimous (5-0).

Dr. Spooky's Animal Museum exterior is the next issue. A motion was made to have Mr. Grybko speak to the Building Commissioner regarding the façade of Dr. Spooky's Animal Museum. Vote was unanimous (5-0).

With regards to the Pioneer Valley Humane Society property, Mr. Barrett personally has a problem with taking industrial land that we don't have a lot of and taking it off tax roll and giving it to a non-profit where we will never see a dime worth of taxes out of it.

Mr. Grybko has another issue with the Pioneer Valley Humane Society. He states that it doesn't have a comprehensive permit. He stated that a comprehensive permit supersedes the Zoning bylaws.

Mr. Bohonowicz points out that it is not even known if the Pioneer Valley Humane Society has purchased the property as yet. They also have not requested any permit.

A motion was made that Mr. Grybko invite Brien Laporte, Building Commissioner/Zoning Enforcement Officer to our next meeting. Vote was (4-0); Mr. Bohonowicz abstained.

Mr. Grybko is concerned with all of the land in Deerfield that has been taken off of the tax rolls. He stated that there is a lot of acreage that is being bought up as non-buildable land.

Motion made to adjourn meeting. Vote was (4-1). Mr. Grybko wanted to continue.

Meeting adjourned at 8:46 p.m.

Respectfully submitted,

Patricia Kroll
Clerk to the Zoning Board of Appeals