

Town of Millbury Board of Appeals

Paul Nigosian, Chairperson
Robert Simmarano, Clerk
Harold Proodian
Ken Perro
Daniel Mezynski
Anna Lewandowski, Alternate member



MUNICIPAL OFFICE BUILDING
127 ELM STREET
MILLBURY, MA 01527

Meeting Minutes Wednesday, December 30, 2015 7:00 pm

Board of Appeals Members Present:

- Paul Nigosian
- Harold Proodian
- Ken Perro
- Daniel Mezynski
- Anna Lewandowski
- Nancy Young (BOA Clerk)

Absent: Robert Simmarano

Guests: Mr. Robert Ceppi and Gary Gover of MPE Inc.

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MILLBURY, MASS

I. Call to Order:

1. Having complied with the provisions of Chapter 40A of the General Laws of the Commonwealth of Massachusetts, relative to advertising and notifying abutters, the Meeting was declared open by Ken Perro at 7:00 pm. All decisions of this board are final.

II. Public Hearing:

1. MPE, Inc. (Map 36; Parcel 10; Zoning District I-1)

Petitioner: **MPE Inc., Robert Ceppi accompanied by: Gary Gover**

Petition Purpose: variance for required road frontage.

The lot is owned by **Elizabeth Aubin** who was present for the December 2nd meeting she was not present for the Dec. 30th meeting.

Mr. Robert Ceppi handed out exhibits of a rewritten petition; as he stated, "I should have written it this way the first time when I first applied". He explained that he was misguided or that he misunderstood what he had to put on the petition by the building department. What he wants to do with this lot, in order to obtain a variance, is the use of "**Industrial One**" which would fall under any use in that category. From the original petition he removed the specific use, (propane tank storage), that his client, if they were to make a deal with the owner, it would be there because that's an "if". This appeal is a "**hardship**" because they had frontage with this property located on Rt. 146 prior to the Rt. 146 upgrades, the property is in an industrial

zone but because of the upgrades on Rt. 146 the property lost the frontage and regardless this property continues to be taxed. The lot has been listed as “Industrial One” but they have not been able to use it or occupy it for the lack of frontage. This is a request for a variance for not needing frontage so they could actually use the property for “Industrial One” use which it is zoned for and could be any one of the uses in that zone. What Mr. Ceppi handed out to the BOA was a revised 2nd page of the original petition which took out the issue of the propane tanks and was also taken out the letter issue of propane use; it “could” or “could not” be that, it’s really not the intent for the variance of this board; if they do go forward with his client he will address all that with the “Planning Board” in the next process after the current process with the BOA.

Chairman Nigosian explained his concerns; he wasn’t sure if a change could be made on the original request/ petition after it was advertised the way it was originally stated/ filed and now the revised copy is a totally different request from the original, **Chairman Nigosian** seems to think they may have to withdraw the original request and then refile.

Mr. Ceppi is in understanding with what Chairman Nigosian is explaining however it is Mr. Ceppi’s intent to have the board move forward at this meeting with the variance for no frontage on the property.

Chairman Nigosian has explained that it cannot be done now that his intent is to change the petition, his option to move forward with his new request would be to withdraw his original petition without prejudice and reapply and file for a different petition based on what he had presented.

Mr. Ceppi was not in agreement; his argument was for the board to come to a decision on the right thing to do, based on the hardship of losing the frontage, a variance to remove the need for frontage for that lot.

Chairman Nigosian explained that the original petition had for a specific use so we cannot move forward unless Mr. Ceppi withdraws and reapplies.

Mr. Ceppi understands and when he reapplies this is what he’s going to do. (“Industrial One”).

Chairman Nigosian “Any further questions?” **Daniel Mezynski** questions; “Can you show on that (exhibit map) where the property is abutting Elizabeth Aubin’s other property in order to justify or make it possible to have the right of way? One property is giving the other property the right of way in order to achieve this. **Mr. Ceppi** yes, I did submit that as part of the package. (refer to maps). **Chairman Nigosian** is she going to grant an easement where this highway is? **Mr. Ceppi** yes. (Refer to maps). The property in question consists of 2.75 acres.

Chairman Nigosian Just to review with the board, what we’re discussing now we’re ultimately voting on the original petition which was filed and advertised for no frontage and to install two 30,000 LP tanks along the rail spur. Depending on how the vote goes if there would be a procedural error which would be open for an appeal.

Gary Gover Just to clarify, If we go forward with a vote at this point in time this boards position is that your voting on the dimensional relief that we’re asking for which is in the board of appeals process and also you’re going to be weighing the potential use of the property in your vote of propane tanks if that was to be our client; so you’ll be voting on both behalves, your acceptance or denial based on those two items and not just on dimensional relief which is really what we need at this board. **Chairman Nigosian** “Correct”... **Gary Gover** If I was to withdraw this at this time without prejudice bring this back to the board at a later date and just ask for dimensional relief because I don’t not know who the client may or may not be, because without dimensional relief I have a very hard time renting it and developing it as the town appears that they are interested in doing. I’ve met with Worcester Redevelopment Authority Lori Connors and also the railroad on this property back several months ago because they are very active in trying to repurpose land like this here and also on Providence Street in town, I think at this point if you’re going to be weighing your decision also based on the possibility of a potential client which may negatively impact us, that and given the fact that one of the voting members is missing (Robert Simmarano) at this time and the

other gentlemen, Mr. Perro, who just stepped in was absent for the last meeting and I don't know if he's fully up to speed and if he's reviewed the tapes, it appears there's some confusion on some paper work that might have been received late. **Chairman Nigosian** "No confusion" **Gary Gover** It seems like we're looking over different things that some people aren't up to speed on. Some questions on the paper work. **Chairman Nigosian** There's no questions on the paper work he's (Ken Perro) just reviewing the file from the original meeting. **Gary Gover** has he had time to review the tape on the actual meeting in order to vote? **Chairman Nigosian** just minutes... **Gary Gover** and he's reviewing those minutes at this time. I think giving the fact that, in my opinion, I'd like to see a full board vote and I'd like to reapply it with the proper wording because we were misadvised so I'd like to withdraw it at this time without prejudice and bring it back at a later date when I have the proper paper work at hand. **Chairman Nigosian** You have that right... **Anna Lewandowski** That was something that was suggested at the last meeting Chairman Nigosian suggested that, to give you the opportunity to come back and actually tell us what you really want, right now we don't know what we're looking at. **Gary Gover** That's exactly what the chairman said last time, Mr. Ceppi brought in some paper work and tried to submit it, it seems as though it can't be accepted or we're not sure it can be. **Chairman Nigosian** He's amending, he came forward and tried to amend the application which he can't do at this point, it was advertised one way and this is a continuation of that hearing that was advertised for Dec. 2nd and continued to now and you can't on a continuation then change what you're asking for which is what he was doing when he submitted the other documentation. If you want to change your application you're going to have to withdraw your original appeal and then reapply. **Gary Gover** I would like to withdraw without prejudice the original application and then possibly reapply at a later date with an application that's up to speed so that everyone is on board. **Mr. Ceppi** What's the process if we we're denied tonight, what's our next step? **Chairman Nigosian** There would be a 20 day waiting period where you would have the opportunity to appeal the decision to the land court, if you didn't appeal you wouldn't be able to come back for 2 years, you wouldn't be able to reapply. **Gary Gover** I'm not prepared at this point to continue following... **Chairman Nigosian** He has made a request to withdraw without prejudice so we have to vote on it, is that what you want to do? **Gary Gover** Yes at this time, I don't feel that we have a full grasp on what needs to be done properly. **Chairman Nigosian** we need a motion? **Harold Proodian** I make a motion to accept the request to withdraw the petition at this time. **Daniel Mezynski** I'll second. **The Board voted 5 – 0 in favor of the motion.**

Chairman Nigosian requested a motion to close a public hearing; Board voted 5 - 0 in favor.

Brief Recess

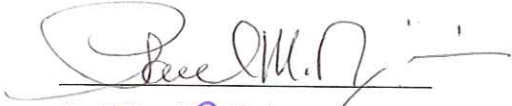
III. Approval of Meeting Minutes:

Other than the miss print of Daniel Mezynski's name all were in favor for December 2, 2015 meeting minutes.

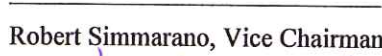
IV. Adjournment

Motion to adjourn by Chairman Nigosian at 8:00 pm, seconded by Ken Perro motion carried unanimously.

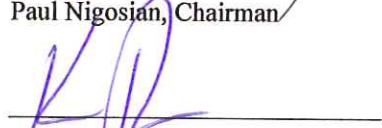
Respectfully submitted by Nancy Young, submitted to Town Clerk on: 1/15/2016



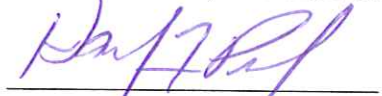
Paul Nigosian, Chairman



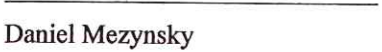
Robert Simmarano, Vice Chairman




Ken Perro, Clerk



Harold Proodian



Daniel Mezynsky



Anna Lewandowski, Alternate