

ZBA Meeting
24 October 2001
7:30pm

The meeting was called to order at 7:30 p.m. Those attending were: Mike Iafolla, Chair, Bob Field, Dick Wollmar, Russell Jeppesen, and Mark Johnson.

Case 2001:41 – Richard Seban, 31 Squier Drive, Lot 8: Requests a variance to Article IV, Section 409.9 for pavement where the ordinance requires a permeable surface for a portion of the driveway that is in the wetlands. Mr. Seban provided a map of the property in question and presented his case with the following: They have approximately 300 feet of driveway. Mr. Seban stated that: 1. They can slant front of driveway away from the wetlands and drain into front yard. 2. They have put in large boulders at the back part of the driveway to break up the rainwater and stop a lot of erosion. 3. They can plant a dense vegetative buffer to the wetlands (as outlined in an attached letter from Jones & Beach Engineers, Inc. with Mr. Jim Gove of Gove Environmental Services). No one else spoke for the petition, no one spoke against it. The general consensus of the board was that they would like to see a plan presented to the ZBA in more detail with concrete information to the specifics of the plan and to have Jones & Beach along with Jim Gove put this plan together. The Building Inspector found, at this time, no violations of the “CO”.

Mr. Seban agreed to table until November and will get plan drawn up by Jones & Beach and Jim Gove and present at the November meeting.

Motion to table made by Mr. Jeppesen, seconded by Mr. Field.

VOTE: 4-0 in favor.

Case 2001:42 – TransAction Associates, 27 Lafayette Road (former McDonald’s): Request for variance to Article IV, Section 405 to allow construction of a car wash/detailing center/lube & oil center where this proposed use is not specifically listed or defined in the I-B/R district as a permitted use or specified exception. Mr. Tim Phoenix, attorney representing TransAction Associates, presented pictures of other similar businesses along route 1 and stated that there are other businesses similar or more intrusive than their business. He stated that they are pending for planning board to address site plan. Their intent for signage is to follow the ordinance on the size of the sign. Mr. Christian Smith presented a floor plan and facsimile of the facility to be built. The current building will be demolished; they will utilize both existing entrances, utilize existing septic/disposal currently there, will be recycling water, and using existing utilities.

Mr. Terry Mackin, Seacoast Village, an abutter of this property, had two concerns that he presented to the board: 1. One of the two egresses that the proposed new facility would be using is also used by Seacoast Village. 2.

Suggested putting very strict limitations on what is approved in variance, i.e. down the road the facility adding a used car business by putting out used cars “for sale” in the parking lot. Mr. Christian addressed #1 above by stating they will be using same two egresses that were used by McDonald’s but there would be far less traffic going in and out than previously. #2 above will be addressed at Planning Board meeting. Board members were in agreement about having strict limitations on usage for property.

Mr. Field motioned that application be approved so as for only use as listed (car wash/detailing center/lube & oil center) and not to change their business or expand their business; seconded by Mr. Wollmar.

VOTE: 4-0 in favor.

Case 2001:43 – Vince Vettraino & Rose Ciesla, 64 Mill Road: Request for variance to Article IV, Section 406 for the construction of a detached garage; the setback will be less than the 15 feet which is required.

Mr. Vettraino and Ms. Ciesla chose to withdraw until the November meeting as it was discovered that Mr. Russell Jeppesen, board member, is an abutter to this property and the board did not have time to bring in an alternate.

Case 2001:44 – Mr. Steve Humes, 37 Post Road Appeal of Administrative Decision, 34 Post Road: Building Inspector found no violations for a home business/occupation. Attorney Mark Sullivan, representing home business owners Bob and Jenny Landman, read letter he had addressed to Mr. Iafolla that he believed that Mr. Iafolla may have a bias in this case and to request that he recuse himself from this case. Mr. Iafolla stated that he would not

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recuse himself from this case and that he only votes to break a tie. Mr. Steve Humes, 37 Post Road, stated that he and his wife, Gail, wish to appeal decision of building inspector that there were no violations. He stated that the issues were not addressed to their satisfaction with no consideration of the rights of abutters. He stated, based on the minutes from original September 15, 1993 meeting, that: 1. The business run by the Landman's has changed considerably since initial approval. 2. Approval made on basis of husband and wife only as employees. (Mr. Humes stated he would have strongly objected if they knew other employees would be added without notifying board or abutters, and that employees parking in view of abutters and on side of road of abutters). 3. Believed the Landman's were approved for invention type business, not assembly type facility. Mr. Humes feels the expansion of business has exceeded original approval and is causing more disruption to the neighborhood.

Mr. Sullivan responded to these issues by: 1. Presented letters from other neighbors/abutters that don't have a problem with the decision. 2. The Law states you can have two other employees besides the two owners. 3. People have the right to park on the side of a road in front of the Landman's. He also stated that the Landman's have been compliant and that the building inspector's (Paul Charron) decision should be upheld. Speaking for the Landman's was Jane Palmer, who approves of the Landman's business; Mr. Alan Hines also approves of the Landman's business; Ron Gross stated that the Landman's have been doing the same thing now as in 1993 in the beginning. Bob Landman spoke and said they have always manufactured/ constructed small parts at their business and have done so since the start. States that he is sure he showed the brochure to the board at the September 15, 1993 meeting. Jenny Landman read letters (attached) from abutters/neighbors that didn't have a problem with the Landman's business.

Speaking against the Landman's was Lu Downey, Sylvan Road, she said cars on the side of the road are an obstruction; Jim Jones is against the business; Larry Miller, 141 Mill Road is against the business; Emily Creighton, 32 Post Road, is against the business; Peter Simmons stated that if you manufacture, it needs to be in commercial zone, not residential.

Mr. Terry Mackin was a member of the ZBA during September 15, 1993 meeting and his recollection of the meeting was: Mr. Landman would be doing R&D work. He was asked if there would be any manufacturing on site and the Landman's said, "No, just R&D." Mr. Mackin also recalled that there might be UPS delivery 1-2 times a week. Mr. Mackin feels that it should be looked at deeper, looking back on the minutes from the September 15, 1993 meeting to see if manufacturing was mentioned.

Mr. Steve Stoddard was also a member of the ZBA during September 15, 1993 meeting and his recollection of the meeting was: There would be no manufacturing on site, that prototype would be sent off site to be manufactured. Mr. Johnson was also a member of the ZBA during September 15, 1993 meeting and his recollection of the meeting was: Was presented that Mr. Landman was an inventor and doing primarily engineering. The Board did not tie them to husband/wife business, so having two other employees is okay.

Mr. Iafolla was also a member of the ZBA during September 15, 1993 meeting and his recollection of the meeting was: His impression was of a "mom & pop" inventor shop. He thought they would make prototype and ship it off for manufacturing. Mr. Iafolla reiterated that the real issue is, as he sees it: Did the building inspector consider all the relevant facts (when he drew up the report) that have come out in testimony since he did this report? Mr. Field stated that he has not seen sufficient evidence to go against the building inspector's decision.

Mr. Wollmar motioned to uphold the building inspector's decision that he found no violations for a home occupation, seconded by Mr. Field.

VOTE: 3-1 in favor, Mr. Jeppesen voting against.

Meeting adjourned at 9:55 p.m.

Meeting minutes submitted by Heidi Nigro.