

SEEKONK ZONING BOARD REGULAR MEETING

MINUTES March 26, 2012

Present: Ch. Edward F. Grouke, Gary Sagar, Robert Read, Ronald Blum, Jeffrey Creamer

7:00 Chairman Edward F. Grouke called the meeting to order.

This is the meeting of the Town of Seekonk Zoning Board of Appeals, March 26, 2012. First I am going to read the Rules and Regulations. I am going to read each petition as it was advertised and call upon the petitioner or their representative to present their case. All testimony, including the testimony and statements of the petitioner and/or the representatives or witnesses will be taken under oath. The Board will ask questions of the petitioner and witnesses. Any questions from the podium will go through the Chair. We will hear from anyone in the audience to speak either in favor of or against the petition or with any questions. At the close of the evidence, we have a discussion and then take a vote. We also usually make a decision on the same night, although we are not required to do that. There are times that we may postpone a petition for another meeting either for a site visit or to gather some information. Once we have closed the public hearing and taken our vote, it is then reduced to writing and filed with the Town Clerk within 14 days of the date the vote is taken. Any person who feels that he is negatively affected by our decision, as long as he has the proper legal standing, has the right to appeal to the courts and anyone considering taking such an appeal has to comply with a very strict time limitations that are applicable to a court appeal.

2011-31 **Seekonk Shopping Center Equities, LLC., c/o Time Equities, 55 Fifth Avenue, 15th floor**, New York, NY, 10003 Owner, by Stephen E. Navega, Esq., 447 Taunton Avenue, Seekonk, MA, 02771 Petitioner, requesting an appeal of the Zoning Enforcement Officer's Decision, and if necessary, a **Special Permit** under Sections 9.2.3.1 and 9.2.3.2, to allow construction of a fueling facility with underground storage tanks, canopies, and kiosks within the Wetlands and Floodplain Protection District at 175 Highland Avenue, Plat 8, Lot 141 in a Highway Business Zone containing 40.7 acres. (Continued from January 23, 2012)

Steven E. Navega An attorney with an office address of 447 Taunton Avenue Seekonk, also a town resident residing at 175 Warren Avenue. Sworn in. I am

here tonight to perpetuate our request for a fueling facility at the BJ's plaza. This is a 40.7 acre site, all Highway Business. We were before you on December 6, 2007 and requested and received approval for a Special Permit for a pylon sign. Excuse me, 2010, we got the underlying use. On November 21, 2011 we were here asking you to amend decision 2010-27 to allow a new LED pylon sign approved by unanimous vote of this Board. The appeal period has gone by and now we are back here at your request to provide more information. So the Special Permit request is under 9.2.3.1 and 9.2.3.2 to allow construction within the Wetlands and Floodplain zone. I am pleased to report to you that we have detailed plans and certified plans signed by Professional Engineers showing all cut sheets, water tables, elevations, engineering data to support our position. The enclosures that we submitted to you are detailed, identifying the canopy, all information to construct tanks, pumps, drainage plans, detailed cross sections of the underground tanks with all water tables. I have with me tonight every conceivable expert having to do with the construction phase, fueling, tanks, planning, every facet of the construction process in case you have any questions. Knowing that you probably don't have questions, I will say that we are completely in a Highway Business Zone. The Special Permit request is a result of the fact that we are in a Wetlands and Floodplain District which is superimposed over the Highway Business which doesn't impose any other restrictions, the underlying zone being Highway Business.

G Sagar I would like to ask a question of one of your Professional Engineers relative to the elevation of the groundwater table.

Joe Casali Registered Professional Engineering with an office at 300 Post Road, Warwick RI. Sworn in.

G. Sagar On drawing F4 on the left corner, there is a section on tank slab. According to our Conservation Agent in a memo she sent to us on November 1st, the 100 year floodplain, the elevation at 9 feet as determined by FEMA. How is that in relationship to the bottom of the slab? There are no elevations on this.

J. Casali The top of the slab is approximately at elevation 9', the floodplain is, this is in a zone "x", but adjacent within this 40 acre parcel the floodplain elevation is elevation 9 so the kiosk, the bottom of the slab is 10' higher than the floodplain.

G. Sagar Okay, the bottom of the tank according to this, this tank is going to be in water constantly?

J Casali Yes. This tank is not within the floodplain elevation so even in a 500 year flood, based on FEMA map, this area of the site will not flood but this site has approximately a 4' groundwater table, it is a 15' deep cut so it will always be submerged in the groundwater which is permissible. So what we are trying to show on drawing F4.0 in response to comments received by the Board last time is

that elevation, that dashed line, that is the water table elevation so anything below that approximately 11' below that is all within groundwater table, 100 year seasonal high water (inaudible).

G Sagar To establish that water table was that based on mottling?

J Casali Yes, we had a soil evaluation done, we read the mottling. We didn't hit water until about 78" but that is irrelevant to the discussion, we looked at the ground water mottling and the discoloration of the soil to determine the 100' seasonal high ground water table should be conservatively at 4' below grade.

G Sagar The other question I have under general notes on page 1, the cover sheet; I had a discussion today with the Fire Chief and if this plans is approved it would go to them when they permit it through the Board of Selectmen when they permit it for storage and then it has to be forwarded to the State Fire Marshal for approval. One other certification I would like to see put on here is that it complies with 527 CMR9 which is from the Mass DEP for underground storage tanks and think with that and with the NFPA requirements on there and basically any other applicable standards then I would be satisfied with what they submitted. It certainly is far greater than what they submitted the first time.

Ch. Grouke Are there any other questions for these witnesses? Are there any other questions for Mr. Navega?

G Sagar You are asking for storage of basically what you submitted 40 thousand gallons?

S. Navega Yes.

G. Sagar If you wanted to increase it in the future, would you have to come back here?

S. Navega Absolutely. We would have to because we are in the Floodplain Protection District that is the reason. We would also have to go back before the Board of Selectmen for a permit to get a license for storage.

Ch. Grouke Is there anyone who wishes to speak in favor of the petition? No response. Is there anyone in opposition to the petition? None. Is there anyone with any questions? None.

J. Creamer The only thing I am not seeing is other signage for this facility. I see BJ's gas, is there something we could see? You have to be advertising the gas prices somewhere.

S. Navega This is a similar installation in Massachusetts that shows directional signs. This is prototypical but it is not exactly.

- J. Creamer Is there any proposed signage on the street?
- S. Navega There is a pylon sign out by the street but that was approved last time we were here. Your Board approved the first one with the LED sign.
- J. creamer My problem with the signs is that you could see five or six signs and other signs coming up. I get nervous when I see lack of detail.
- S. Navega The problem on Route 6 is those unpermitted signs. Of course, these are not unpermitted signs; they will be under the scrutiny of the Building Inspector.
- G. Sagar We need to include this drawing with the ...
- Ch Groucke It seems like we requested information at the last meeting, after we approved the sign portion of the petition then the information was submitted. It seems to be satisfactory as to what we were looking for.
- G Sagar Mr. Navega, would you be opposed to putting a title block on this with a date?
- S. Navega All the signs proposed are in the package. I will do whatever you suggest to do but keep in mind this is representative of it. This is not the Seekonk store; it is in Berlin, MA.
- Ch. Groucke We already acted on the pylon sign and the other signs are going to conform?
- S. Navega Yes, whatever is in your package.
- Ch. Groucke So there is no request for a Variance?
- S. Navega No Variance request, it is part of the kiosk. This is prototypical.
- Ch. Groucke We can handle the sign situation by stating it is as submitted and as allowed by the bylaw.
- G. Sagar I want to make sure we are talking about the same set of plans. So if we approve this and recognize these plans with this date it would be okay, just so we have something for the record to identify it.

G Sagar made a motion to close the public hearing, seconded by R Blum, **and so voted unanimously by:** Ch. Edward F. Groucke, Gary Sagar, Ron Blum, Jeffrey Creamer and Robert Read

VOTE: (Approve 5-0)

G Sagar made a motion to approve the petition as submitted identified on plans by JGD Associates from 11/28/11 stamped by Professional Engineer on March 9, 2012 with the additional general notes that the tanks must conform with 527CMR9 and all other applicable local and state regulations, seconded by R Blum, **and so voted unanimously by:** Ch. Edward F. Grouke, Gary Sagar, Ron Blum, Jeffrey Creamer and Robert Read

VOTE: (Approve 5-0)

2012-04 **Stuart & Kristen Montgomery**, 89 Woodward Avenue, Seekonk, MA, Owner and Petitioner, requesting a **Variance** under Sections 6.3 and 6.4 and Special Permit under Section 5.2.3 of the Zoning Bylaws to allow an addition and an attached deck to an existing dwelling with less than the required side yard setback at 89 Woodward Avenue, Plat 21, Lot 206 in an R-2 Zone containing 17,000 ± square feet.

Stuart Montgomery Kristen Montgomery 89 Woodward Avenue. Sworn in.

S. Montgomery We are trying to make our house livable, this happened after Irene when we had a fire at the house. Now that the house is opened up, we wanted to put an addition. The bylaws talk about not being large enough lot and the setback for an existing structure. I think the way we designed the addition stays within those rules.

G. Sagar So it is undersized, it should be 22,500 in an R-2.

S. Montgomery I was under the impression that it was the sideline of the existing house.

R. Read I think the proposal is all within the setback requirements but the lot is small.

Ch. Grouke Is there anyone here in favor of the petition?

Victor Gelinas 88 Woodward Avenue, Seekonk. Sworn in. I live directly across the street. This addition would be in my line of site, I don't care. I think it will be a nice addition to the house; they have a garage closer to the property line than that. I hope you vote in favor of this.

Ch. Grouke Is there anyone in opposition to the petition? None. Is there anyone with any questions? None.

G Sagar made a motion to close the public hearing, seconded by R Blum, **and so voted unanimously by:** Ch. Edward F. Grouke, Gary Sagar, Ron Blum, Jeffrey Creamer and Robert Read

VOTE: (Approve 5-0)

G Sagar made a motion to uphold the decision of the Building Inspector/Zoning Enforcement Officer, seconded by R Blum, **and so voted unanimously by:** Ch. Edward F. Grouke, Gary Sagar, Ron Blum, Jeffrey Creamer and Robert Read

VOTE: (Approve 5-0)

G Sagar made a motion to approve the petition as submitted for both the Variance and Special Permit, seconded by R Blum, **and so voted unanimously by:** Ch. Edward F. Grouke, Gary Sagar, Ron Blum, Jeffrey Creamer and Robert Read

VOTE: (Approve 5-0)

2012-05 **JT Development Partners, LLC.**, 965 Fall River Avenue Seekonk, MA, Owner by Stephen E. Navega, Esq. 447 Taunton Avenue, Seekonk, MA, Petitioner, requesting a **Variance** under Section 12.4 of the Zoning Bylaws, to allow the construction of sign insert measuring approximately 41" x 75" incorporated into existing free standing sign and/or amend case 2009-18 to allow such signage at 965 Fall River Avenue Plat 8, Lot 20, 101 & 103 in a Highway Business Zone containing 106,033 sq ft.

Atty. S Navega I am here tonight representing 1149 Restaurant located at 965 Fall River Avenue. I have the manager here, the sign contractor. We front on Fall River Avenue and we front on Route 195. We were here in 2009 to get our permits at the time. They committed millions of dollars into this project; it is a state of the art operation. They found that because of their introduction to Seekonk, they have generated a lot of competition and as a result of that, they need additional signage. This would be for special events, things of that nature. I would suggest

to you that at the time we came in here our pylon sign currently is 75 square feet, we are allowed 120 square feet in a Highway Business Zone, we are asking for an additional 22 sq ft. to bring us up to 97 square feet. It is still under the allowed 120 square feet in a Highway Business Zone. We are double faced in a sense that we are on both sides of the stone on the existing pylon sign. I would suggest to you that the hardship is unique to that particular property because of the way it is configured on the lot. The motoring public, coming off the freeway looking at traffic, don't see the sign on that particular pylon sign. This sign is under 22 sq ft. it is an electronic sign, but it is not going to be flashing, moving, running, animated. It is just advertising special events, Mother's Day, Father Day, that kind of thing. I think it is certainly within the bylaw, as you know the test for a variance is such that you need to prove a hardship, and I would suggest to you that owing to the size shape and topography of the lot in question, the relief we are seeking would not be a derogation of the bylaw and in keeping of the bylaw. It is under the square footage allowed. I have the local manager here and the sign contractor here. It is 97 square feet and we are entitled to 120 feet ...we are under what we are allowed. Your bylaws are unique in a sense that it is 120 square feet and then it says in the last sentence, "may be double-faced" so when I say it is 97 square feet but it is double-faced.

R Blum So it will be on both sides of this?

S. Navega Yes.

R. Blum You came and we granted you a sign on the tower, we granted you a sign on the other side of the tower, is that correct? Why do you need this additional signage?

S Navega The visibility coming off the exit.

R. Plum You are right off the exit ramp, how much more visible can you be?

S. Navega When I come off the exit I look left. I happen to know it is there.

R Blum I think we have given more than enough signage. Every time you have asked we have granted, granted, granted. How much more signage can be on this building or pylon?

S Navega I will say this, the bylaw allows 120 sq ft. (inaudible) I think they put 4.5 million dollars into this project, they came in for 75 sq ft. which is well under what is allowed, and we front on 2 streets, we are allowed two pylon signs but we did not ask for two, we asked for one. We are asking the board to consider 21.35 additional square feet on the existing sign and it will still keep us under the 120 square feet and the hardship I think is created by the situation they are in.

R. Blum Does the other location have this signage?

S. Navega I don't know but I will say this, you have allowed this for Bed, Bath and Beyond; Bernie's; the dentist and as long as you meet the criteria, you have allowed this. I am not asking you to derogate from the bylaws; we are not asking you to varying the bylaws in a sense that we are allowed it, so I am just asking for an additional sign. We could have incorporated it into the original oval at the time but we didn't any stipulation that you make concerning how the electronic sign operates on a daily basis is fine with them but they need more visibility and I think there is a hardship.

Rand Robison I am the director of operations for 1149 Restaurants. Sworn in. We will be before the Warwick Town Counsel for similar signage.

G Sagar The application for this sign is different than what we approved before. In the past, it was Thomas Wright.

S. Navega He was a partner before (inaudible)

Ch. Groucke Is there anyone here in favor of the petition? None. Is there anyone in opposition to the petition? None. Is there anyone with any questions? None.

G. Sagar Do we all agree he is entitled to 120 square feet?

Several Board members stated "yes"

Ch. Groucke Our usual stipulation is once a day or once every 24 hours it can be changed.

G. Sagar And it is made available to the public safety departments. When you look across the street at the Ramada, they have a huge sign so it is in keeping with the neighborhood. But they are under the allowed by 20%.

S. Navega The interesting thing about this, if you notice the Building Inspector's determination letter, she stated that electronic signs are not allowed in town.

G. Sagar They are not at this time.

S. Navega They are in 12.6.

G. Sagar And you know living in town, we encourage all the businesses in the world to come in here but just don't ask for a sign. Mr. Chairman, if we approve this, do we want to amend or write a new decision replace and supersede it?

Ch. Groucke We should supersede it.

G. Sagar Replace it and supersede it as we have done in the past.

G Sagar made a motion to close the public hearing, seconded by J. Creamer, **and so voted unanimously by:** Ch. Edward F. Grouke, Gary Sagar, Ron Blum, Jeffrey Creamer and Robert Read

VOTE: (Approve 5-0)

G Sagar made a motion to uphold the decision of the Building Inspector, seconded by R Blum, **and so voted unanimously by:** Ch. Edward F. Grouke, Gary Sagar, Ron Blum, Jeffrey Creamer and Robert Read

VOTE: (Approve 5-0)

G Sagar made a motion to approve the petition as submitted with the standard stipulations for signage of this type, seconded by R. Read, **and so voted by:** Ch. Edward F. Grouke, Gary Sagar, Jeffrey Creamer, and Robert Read

Opposed: Ronald Blum

VOTE: (Approve 4-1)

2012-06 **Time Equities Inc.**, 55 Fifth Avenue, 15th floor, New York, NY 10003, Owner by Timothy Sullivan representing Barlo Signs, 158 Greeley Street, Hudson, NH 03051, Petitioner, requesting a **Variance** under Section 12.4.2 of the Zoning Bylaws, to allow the installation of two additional illuminated wall signs measuring 4' x 25'11 ¼" at 145-175 Highland Avenue (Verizon Wireless), Plat 8, Lot 141 in a Highway Business Zone containing 609,840 sq ft.

Tim Sullivan Barlo Signs Hudson New Hampshire Sworn in. The site sits on an island in the parking lot at Seekonk Crossing presently we received approval for 2 signs, one sign over the main entrance and the second sign, if you are facing the building approaching from the west. We are seeking approval for two additional signs; one on the eastern side as you approach the property and one on the rear of the building. With the BJ's coming into that back plaza we are hoping for a lot of traffic on that back entrance. This site is important for Verizon they see the potential this site could have. They have been open 6-8 months, but they have fallen below what they think they should be at for sales at this property. These two additional signs are something they feel would help identify it and even more so when the BJ's gets up and running in the plaza. If you approach from the east

the building is virtually unidentified. It is a fairly nondescript square block building and the entrance to the plaza before the building, they need identification before the building to allow motorists to enter the parking lot or you enter through the rear. You have to come in from either side, loop around and come back into the front. There is no direct entrance at the front of the store. There are several other businesses like this along that strip of road, most have a free standing sign at the road with two signs on the building. Some like Dunkin Donuts are wrapped with orange awnings; they all have their own uniqueness that helps identify the property without actually saying what they are. Verizon doesn't incorporate that type of thing, and that is why they think it is important to give some identification primarily from the east but also from the rear of the building as the plaza looks to grow.

G Sagar One difficulty I had initially with this is the fact that the site plan we were given, I am assuming the Verizon store is identified as the word "vacant". We have in the past granted additional signage for many reasons. I happen to personally like the fact that it is on the existing building rather than something free-standing in the parking lot.

T. Sullivan We have LED lit letters; similar to the letters existing they are within the size allowed but just the additional signage.

Ch. Groucke Are they within the size allowed?

T. Sullivan They are within the size allowed, it is just the additional.

J Creamer How many square feet of signs?

T. Sullivan They are allowed two signs at 100' by right, they are seeking two additional signs.

R. Read Did they come before us for the two existing signs?

T. Sullivan No, those are allowed by right. The entrance is considered the second frontage on the property. We have one frontage as you enter the plaza so the two signs are allowed by right.

R Read The dental office next door came before us for the second one. There is another one in there that just has two. There is no possibility of Verizon being on the free standing sign?

T. Sullivan (Inaudible)

R. Read This building screams for more signs because most of the time you are behind the building and you have no idea what the building is, but I question whether our bylaws allow it.

- J Creamer I worry about setting precedent when you put this much signage on one building, we have sign pollution, this is overkill to me.
- T. Sullivan We were approved for two signs but which two signs. Obviously over the entrance but we needed it on the other sides (inaudible).
- R Blum Southcoast Smiles came before us for the second so it had more direction.
- R. Read You could drive around in that parking lot for ten minutes and not be able to figure out where the Verizon building is.
- G Sagar Would the board consider allowing him a third sign and not a fourth?
- J Creamer I worry about overkill.
- Ch. Groucke This setup is somewhat unique.
- G. Sagar When you drive in that rear access road, the signalized entrance, you could see it on two sides, you wouldn't need one on the back, I think a fair compromise would be a third but not a fourth.
- J. Creamer I could agree with that sometimes you set a precedent.
- T Sullivan Would there be any consideration to a smaller sized sign on the rear so the people at BJ's plaza can see it?
- R. Read I did mention that the dental building had two signs but there could never be a sign on the back because that is now a vacant building but when that is filled there will be a couple signs on that because of the different tenant. When I drove in there, I drove down toward BJ's and looked around and the side facing the parking lot is just a great big blank wall.
- R Blum I agree with you, it has its own issues, BJ's there is no back to it, same with Sports Authority, you are only looking at the front façade if you are looking at the Verizon Wireless, it is sitting in the middle of the parking lot with access, you see it on the street, you see it from the left, the right and coming from the rear. I understand the scenario and honestly, I have been there a couple of times in the last few weeks and I come in the entry way and go past the Southcoast Smiles and Pier Imports but it needs some directional signage because you miss it.
- R Read That is the other one, Pier Imports. They have two but not four, that is a free standing building too; one on each of two sides. (inaudible)

- G Sagar They did the same thing; they mounted on the building, not free standing. I could support the four because who are all their abutters? It is Highway Business, other retail. It is not like there is any residential anywhere in sight.
- R Blum There are no other situations like this, if you look across the street all those are front facing, all the signs are on the front of the building, it is not like they need signs in back.
- G Sagar I think we could articulate all this when we do the decision so it is not precedent setting.
- Ch. Groucke I think we could approve this without opening up the floodgates.
- G. Sagar Now all four signs are going to be the same size?
- T Sullivan All four signs would be the same, yes. The letters themselves are only 2' but when you get that "Z" that drops down and the dot on the "i" it increases your size. (inaudible)
- Ch. Groucke Is there anyone here in favor of the petition? None. Is there anyone in opposition to the petition? None. Is there anyone with any questions? None.

G Sagar made a motion to close the public hearing, seconded by R Blum, **and so voted unanimously by:** Ch. Edward F. Groucke, Gary Sagar, Ron Blum, Jeffrey Creamer and Robert Read

VOTE: (Approve 5-0)

G Sagar made a motion to uphold the decision of the Zoning Enforcement Officer, seconded by R Read, **and so voted unanimously by:** Ch. Edward F. Groucke, Gary Sagar, Ron Blum, Jeffrey Creamer and Robert Read

VOTE: (Approve 5-0)

G Sagar made a motion to approve the petition as submitted because the uniqueness of the property creates a hardship and stipulate our reasons in the decision, seconded by R Blum, **and so voted by:** Ch. Edward F. Groucke, Gary Sagar, Ron Blum, and Robert Read

Opposed: Jeffrey Creamer

VOTE: (Approve 4-1)

Work Session:

The Board discussed that the next meeting will be April 30, 2012 at 7:00 PM.

On a personal note, I would like to offer our best to one of our alternates Mark Brisson who has had some serious health issues.

Approval of Minutes:

The Board did not vote to approve minutes.

Adjournment:

G Sagar made a motion to adjourn the meeting, Seconded by R. Blum
and so voted unanimously by: Ch. Edward F. Grouke, G. Sagar, R. Blum,
J. Creamer and R. Read

VOTE: (Approve 5-0)

Meeting adjourned at 8:00 PM

Respectfully submitted by:

Christina Testa, Secretary