

SEEKONK ZONING BOARD REGULAR MEETING

MINUTES December 3, 2012

Present: Ch. Edward F. Grouke, Robert Read, Keith Rondeau, Gary Sagar (for Keith Rondeau petition 2012-24), Jeffrey Creamer, Ronald Blum, Gary Sagar (for Ron Blum on petitions 2012-16, 2012-26 and 2012-25)

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

Ch. Grouke This is the meeting of the Town of Seekonk Zoning Board of Appeals, December 3, 2012. I am going to go over our 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 of the Commonwealth of Massachusetts; and anyone considering taking such an appeal has to comply with very strict time limitations that are applicable to a court appeal. The time limits are very strict.

2012-16 Marita V. LaRotonda, 46 Juniper Road, Seekonk, MA, 02771 Owner, by Martin V. LaRotonda (Trustee), 46 Juniper Road, Seekonk, MA 02771, Petitioner, Appealing the Decision of the Zoning Enforcement Officer, and requesting a **Variance** under Section 6.3 to allow the construction of a garage and breeze way on an existing foundation of a single family dwelling on a lot with less than the required lot area at 46 Juniper Road, Plat 6, Lot 89 in a R-1 Zone containing 11,373 sq ft. (continued from October 15, 2012)

2012-26 Marita V. LaRotonda, 46 Juniper Road, Seekonk, MA, 02771 Owner, by Martin V. LaRotonda (Trustee), 46 Juniper Road, Seekonk, MA 02771, Petitioner, Appealing the Decision of the Zoning Enforcement Officer, and requesting a **Special Permit** under Section 5.3 and a **Variance** under Section 6.3 and 6.8 to allow the construction of a garage and breeze way on an

existing foundation of a single family dwelling on a lot with less than the required lot area at 46 Juniper Road, Plat 6, Lot 89 in a R-1 Zone containing 11,374 sq ft.

Martin LaRotonda 46 Juniper Road, sworn in.

Ch Groucke This has been on the agenda several times. We requested an engineered plan to show the location of the existing foundation and you did that and were able to provide us with exact dimensions of the garage from the property line and Mr. LaRotonda filed an additional petition, 2012-26, so you could make sure you got all the relief you needed under all the bylaws. Both petitions are here for this petition. Any questions for Mr. LaRotonda we have thoroughly discussed this matter.

Barbara Hayden 40 Linden Road, sworn in. We are one of the abutters. We saw the minutes from the July and August meeting, I am not sure what transpired in October. We have not seen the plans after they were done but I wanted to restate our concerns, that any type of flooding runoff would be directed away since our backyard gets a lot of water as it is and we know Juniper Road has had its issues with water as well. Also, the abandoned vehicles go.

G. Sagar Would you like a copy of the plan?

B. Hayden Yes, I would appreciate that.

Martin LaRotonda I object to that. My neighbors, they put up a garage of their own. They must have bought their own plot plan and for me to provide them a copy of my plot plan, it doesn't seem right.

Ch. Groucke You object to giving them a copy of the plot plan?

M. LaRotonda Yes, I do.

Ch. Groucke This is a matter of public record, that is why Mr. Sagar offered it to them, because it is a public document.

M. LaRotonda I understand that Mr. Chairman, but we have not closed the public hearing yet and I think I have to file it with the registry anyway. If anybody is going to get plot plans, I request they go through the proper channels and go through the registry after this is all done. That is all I am asking, that is my right. This is still on-going, you haven't voted yet.

G. Sagar Just to clarify that anybody from the general public can walk into the office and can request a copy of that at any time.

M. LaRotonda I understand that but I would rather have them walk into the office and get a copy rather than get it from this meeting.

Ch. Grouke Mr. Sagar already offered it to them and they accepted it.

(Barbara Hayden returned the plan to Gary Sagar)

Ch. Grouke Any discussion brought up by the abutter? I believe we addressed them at one of our previous meetings but, I think the building inspector can address runoff issues in the building process and the vehicle issue. You indicated you would take care of those vehicles; you addressed that matter; so you would agree to that type of stipulation?

M. LaRotonda Yes.

Walter Keilman 35 Juniper Road, sworn in. I would like to make a strong recommendation to approve the Variance for this project. We had 30-35 signatures on the petition, every household on Juniper Road signed the petition, and after the petition was turned in we had other people in the area come to sign but we already turned it in. There is a strong recommendation that this project go through I have been looking at this foundation for 45 years now and I would like to see the breezeway and garage completed, it would be a benefit to the community.

G. Sagar made a motion to close the public hearing and uphold the decision of the Building Inspector, Seconded by J. Creamer; **and so voted unanimously by:** Ch. Edward F. Grouke, Keith Rondeau, Gary Sagar, Jeffrey Creamer and Robert Read

VOTE: (Approve 5-0)

K. Rondeau made a motion to approve both petitions, 2012-16 and 2012-26, as presented for the construction of the garage and breezeway on the existing foundation with stipulations that any and all abandoned vehicles that are on the property now are removed after construction is completed and the Building Inspector ensures that any stormwater runoff is appropriately resolved so the neighbors are not adversely affected, Seconded by G. Sagar; **and so voted unanimously by:** Ch. Edward F. Grouke, Ron Blum, Gary Sagar, Jeffrey Creamer and Robert Read

VOTE: (Approve 5-0)

2012-25 David Darling, 940 Fall River Avenue, Seekonk, MA, Owner by Michael Szczoczarsz, Neolite Signs, 102 Pond Street, Seekonk MA, Petitioner, requesting an appeal of the Zoning Enforcement Officer's Decision, and if necessary, a **Special Permit** under Section 12.6.1.1 of the Zoning Bylaws to allow an LED message center on an existing sign at 940 Fall River

Avenue Plat 79, Lot 64 in a Highway Business Zone containing 9.17 acres.

Michael Szczoczarz Pond Street sworn in. Last year we did renovations to the sign, we changed the name from Ramada to Clarion; the sign was in bad shape. It was a very large sign, we cut the sign by 10 sq feet on either side, we feel that under the circumstances an electronic message would complement it. The newer sign is reduced in size from the old one, when we built the new one, we covered over a foot on each side, it was 10'x20' now it is 10'x18'. The message sign will be used between Clarion and the restaurant, maybe one day the room special and other the meal special. They will follow the one time per day rule; we feel we are in the right zone.

G Sagar It is a nice looking sign. When we started approving these signs we had some stipulations that went along with that; one change per day, no blinking, flashing, and make it available for emergency purposes.

K Rondeau A lot of them are not following the stipulations; that needs to be addressed. I drove by 1149 the other day and saw it change.

Ch. Grouke Is there anyone in favor of this petition? None. Anyone against the petition? None. Any questions? None. Any further discussion?

K. Rondeau It is a special permit, again for the record I want to voice my reluctance to approve these signs, even though there is a lot of benefit to these signs because of the fact that some of the businesses and churches have taken the opportunity to disregard the stipulations. It is not right for those abiding by the stipulations; I plan to support but continue to voice my concerns. This falls back on enforcement. We are here trying to keep everybody in compliance

G. Sagar made a motion to close the public hearing and uphold the decision of the Building Inspector, Seconded by J. Creamer; **and so voted unanimously by:** Ch. Edward F. Grouke, Keith Rondeau, Gary Sagar, Jeffrey Creamer and Robert Read

VOTE: (Approve 5-0)

G. Sagar made a motion to approve the petition with the stipulations as imposed from past (LED message centers), Seconded by J. Creamer; **and so voted unanimously by:** Ch. Edward F. Grouke, Keith Rondeau, Gary Sagar, Jeffrey Creamer and Robert Read

VOTE: (Approve 5-0)

Stipulations:

- a. There will be no change of script except daily;
- b. No intermittent illumination or traveling, flashing or animated lighting is allowed;
- c. The sign will be made available for emergency public messages. The petitioner will inform the fire chief and police chief in writing of this provision;
- d. To the extent possible, the sign shall be rustic in nature;
- e. The hours of operation shall be in compliance with the bylaws;
- f. The sign by law shall apply in all other respects;
- g. The sign will be equipped with automatic photo cell dimming during darkness.

2012-27 Glenn M. Looker, 181 Shaylee Place, Swansea, MA 02777 Owner and Petitioner, Appealing the Decision of the Zoning Enforcement Officer, and requesting a **Special Permit** under Section 5.3 and a **Variance** under Section 6.4 to allow the construction of a single family dwelling with an attached garage on a lot with less than the required frontage and front yard setback width at 0 Ipswich Street/0 Hull Street, Plat 12, Lot 227 in a R-1 Zone containing 15,000 sq ft.

Paul Carlson InSite Engineering, with an office at 1539 Fall River Avenue, Seekonk. Sworn in. Mr. Looker is also here to answer any questions you may have specific to the property. The property is found on plat 12 lots 227, 228, 307, 308, and 309. Lots 227 and 228 front on Ipswich Street and the others front on Hull Street. The property is found in the R-1 zone, each of the 5 lots contains 3,000 square feet, which this parcel contains five separate lots totaling 15,000 sq feet. The subdivision which makes up this entire area was crated in 1913 with the majority of the lots in this subdivision measuring 3,000 sq ft. The properties within the subdivision contain between 3-6 of these 3,000 sq ft lots. The proposal before you will allow the construction of a single family 3 bedroom house fronting on Hull Street with additional access on Ipswich Street. This lot with its 90' of existing frontage would fall within the legal nonconforming lot therefore Mr. Looker needs to obtain a Special Permit under 5.3. This project is not substantially more detrimental to the neighborhood. There are at least 7 lots either adjacent, in, or around the property that also contain 90' of frontage, therefore Mr. Looker is seeking approval

for a Variance for a reduction of lot frontage from 100' to 90' and a reduction of the front yard setback from 120' to 90'. The Special Permit and Variance we are seeking are in character with the surrounding neighborhood.

Ch. Groucke Is this preexisting nonconforming?

P. Carlson Yes.

Ch. Groucke Does that mean you don't need the variance because it was legal at the time it was formed?

P. Carlson We bring it before you to verify and make sure but possibly not. It is the front yard setback width and frontage.

G. Sagar If you have less than 120' in an R-1 zone, if you are short, you are supposed to have an additional 250 sq ft of area, this does not have any of that. Based on the research from the Assessor's office, these 5 lots have been in common ownership since 1917. It predates zoning. That is a hardship.

P. Carlson That is correct. The front of the house will face Hull Street and the house will fit all required setbacks. A secondary driveway will come off Ipswich Street. It will have two driveways.

K. Rondeau The frontage issue is Hull Street.

G. Sagar The frontage issue becomes an area issue too but they were created back in 1917 it predates zoning. There is an argument based on the Chairman's point that perhaps the relief isn't needed but seeing as you are here.

J. Creamer What is all that stuff on the lot?

P. Carlson Mr. Looker has a concrete form business, this property was used for the storage of the concrete forms. They will be removed prior to the construction of the house.

Ch. Groucke We wouldn't want those forms stored in a residential neighborhood.

G. Sagar It is improper storage in a residential zone.

Ch. Groucke Do you know about the ownership of the surrounding lots Mr. Carlson? The Board had a little problem with a merger case recently so we are a little sensitive to that.

P. Carlson Lots 233-239 they are owned by an abutter all six are owned in common ownership by a neighbor. But those are the only lots he owns, those five in

question. They might be merged but they are still considered separate lots of record in common ownership.

Ch. Grouke Is there anyone in favor of this petition? None. Is there anyone in opposition to the petition? None. Are there any questions? None.

K Rondeau My only question coming into this was is there a merger doctrine issue, but I don't think there is one.

Ch. Grouke I don't think there is.

P. Carlson Only those lots are merged by the assessors, but there are no other lots that are in ownership by the petitioner.

G. Sagar The former building Inspector in Rehoboth was always of the opinion if you take those five lots, where they are in common ownership in essence those interior lot lines don't exist and it is all one piece of land.

P. Carlson The way the assessors put this in a form is that the primary lot, in this case is 307 it is combined with the other lots as one.

Ch. Grouke I am particularly satisfied that this has been owned together since 1917 and has been known as one lot since then, it predates zoning, so our requirements are overridden by that and the original subdivision was from 1913.

J. Creamer This needs to get cleaned up, it should not be a storage area and that needs to be put in the stipulations.

G. Sagar made a motion to close the public hearing and uphold the decision of the Building Inspector, Seconded by R. Read; **and so voted unanimously by:** Ch. Edward F. Grouke, Keith Rondeau, Gary Sagar, Jeffrey Creamer and Robert Read

VOTE: (Approve 5-0)

G. Sagar made a motion to approve the petition in accordance with the "Zoning Determination Plans" of InSite Engineering of November 2, 2012 with the stipulation that all improper storage of forms be cleaned up prior to the Certificate of Occupancy, Seconded by J. Creamer; **and so voted unanimously by:** Ch. Edward F. Grouke, Keith Rondeau, Gary Sagar, Jeffrey Creamer and Robert Read

VOTE: (Approve 5-0)

2012-24 Ronald J. DiPietro, 400 Taunton Avenue, Seekonk, MA, Owner by Albert Whiting, Ready Imaging Inc., Manchester CT, Petitioner, requesting an appeal of the Zoning Enforcement Officer's Decision, and if necessary, a **Variance** under Section 12.4 of the Zoning Bylaws to allow the applicant to install (1) CITGO "trimark" sign and (1) set CITGO letters, and apply new decals to the canopy fascia, at 400 Taunton Avenue, Plat 19, Lot 487 in a Local Business Zone containing 25,649 sq ft.

Al Whiting Ready Imaging 68 Loomis Street Manchester, Ct. sworn in. The site is at 400 Taunton Avenue. CITGO is currently underway with a nationwide program to reimage their centennial image to be done in the spring. It consists of two elements. The first is to cover the existing fascia on the canopy with new decals red and white decals and CITGO is requesting the installation of two signs on the canopy fascia on Taunton Avenue. One sign is a triangular CITGO logo known as the "trimark" and the other is a set of letters spelling out the word "CITGO". That is the only thing we are looking for only on the canopy; nothing on the building, strictly on the gas station canopy.

Ch. Grouke You submitted some pictures showing before and after details.

R Read The freestanding sign in the background is not being touched?

A Whiting That was only put up within the last couple of years I believe.

Ch. Grouke Is there anyone in favor of this petition? None. Is there anyone in opposition to the petition?

Attorney Donald MacManus I am an Attorney with an office at 546 Arcade Avenue. I am representing a number of neighbors who live north of this site that are in opposition of this. I have signatures of 13 residents opposed to this for stated reasons on the petition. In essence this petition says why they are opposed is that the residents have been living with a situation in that area for many years. The tenant, "Town Sanitation" is using the property for storage and transfer of septage, storage of "Port-a-Johns". The residents make frequent complaints to the Town that have not been adequately enforced. In essence, they are living in an area that I don't think any one of you would want to live in. When they go out into their yards in the summertime there is a good chance you will get strong septage odors from what is going on in a residential zone behind their houses. The bylaw has never been fully implemented in that area. Therefore, our point is that the Board shouldn't issue a variance to someone who is already obviously violating the bylaw. We have specific objections to the petition as submitted. Chapter 40A Section 11 says that notice be sent to abutters and abutters to abutters within 300' of property owned by the

petitioner, not to where the entire operation goes on. The ridiculous outcome of that is almost 1/3 of the notices they sent out were sent to themselves. Secondly, there has been no allegation of a hardship. 40A section 10 is very clear. They have to show a hardship to get a Variance; this is not a Special Permit. They have to show a hardship that is unique to this lot, compared to other uses in this zone, which this obviously is not. The hardship has to be substantial and not financially substantial, should not derogate from the intent and purposes of the bylaw. I know the board has had similar petitions in the past but if you grant variances like this without proper hardship you are derogating from the intent and purposes of the bylaw and you are chipping away from what the bylaw was passed at Town Meeting. In essence the applicant has a history of not following the Zoning bylaw so the Town should not issue a variance for an applicant who is not in compliance with other parts of the zoning bylaw. And certainly, septage transfer and storage in a residential area, this should not be allowed. I doubt it can even be allowed in a highway business zone, if anything it might be allowed in an industrial zone but this is not the proper place for that to go on.

Ch. Grouke Thank you Mr. MacManus. Normally if you came forward with an issue I would say to the applicant to address the situation what has been raised in the opposition but this gentleman here owns a sign company in Connecticut so he doesn't know anything about what you are talking about. So I pose a question to you, do we have the right to consider the issues you have raised, other than the Variance grounds, do we have a right to consider those issues you raised for a variance for the sign?

Atty. MacManus What people object to here mostly is the devalue of their property with what is going on. If your question is can you hear that right now? No, but you have very substantial objections to this matter here regarding notice and hardship, we deserve to hear that.

Ch. Grouke The notice issue, the lot in question is owned separately from the other lots.

Atty. MacManus There was a lot of talk here earlier about merger. But these lots are all owned by the same owner. The statute says you are supposed to be giving notices from the property line of the petitioner not the affected parcel or the lot in question you are asking relief from. The obvious problem from not going from the petitioner is you are notifying yourself in that case.

Ch. Grouke But does he own them all in the exact same name or are they separate entities or form of ownership.

Atty. MacManus I believe they are all in the exact same name. You can see from the plan that the other lots, the names on them are the same name as the lot where the gas station exists.

Ch. Grouke The other thing with the notice argument is undercut a little bit by the fact that people are here.

Atty. MacManus Yes, some people are here but more people might be here if more notices went out.

Ch. Grouke And opposition is being stated based on an issue that is not unfamiliar to us. This was discussed at a work session, the gentleman is here, he came before us, we cautioned that we did not want to get into particulars of this in the absence of the owner. We gave quite a bit of discussion time and said at that time that it would not be fair to consider that without the owner being present to make a finding. How do we make a finding about something that is going on without the owner of the property being there?

Atty. MacManus I agree. We are not asking the board to rule on the septage situation. We want you to be aware of it, but we have specific objections to this Variance regarding notice and lack of a hardship there is not even an attempt at a hardship.

Ch. Grouke One thing I noticed in the petition is they said that this is being required by CITGO to upgrade so you know how that goes, the big company says you have to upgrade your signs and if you don't we are shutting you off.

Atty. MacManus If evidence was presented that way you could consider that but there is no evidence that they would pull their support and it would still have to be unique to this property and would not derogate from the intent and purposes of the bylaw but all it says is CITGO wants this.

R. Read To get back to the sign, is that the only sign on the building?

A Whiting No, there is a free-standing sign on the property.

G Sagar I think you are incorrect on that sir, there is a sign attached to the building, when you face the building the left of the building there is a sign attached to the building that says CITGO.

Ch. Grouke That is probably the Building Inspectors rationale that this would be considered a second sign.

Atty. MacManus They have a second free-standing sign next to the building.

R. Read We have a decision similar to this. The Honda dealership without the "H", it was oversized according to our bylaw.

G. Sagar The other interesting argument on notice is there is a paper street that divides the lots, if it is 300' from the lot line, doesn't the paper street interrupt that 300'?

Atty. MacManus From the lot line, yes it would. But that is not according to the statute. Someone who owns land on two side of a paper street owns into the middle of the paper street, that ownership is continuous all the way through to the farthest back lot.

R. Read Is some of the business activity you were talking about beyond that paper street?

Atty. MacManus Yes.

G. Sagar If it is improper notice (inaudible).

J. Creamer Do we need to prove hardship? I don't know how we mix these two together. I certainly understand their plight over there, but this is a much bigger issue. Is that a legal issue? Do we need to continue this?

R Blum That is an enforcement issue the way I see it.

R. Read Have you approached any other offices in Town about this?

Atty. MacManus Me, personally, no. I believe the Health Inspector was contacted. I want you to understand my point. If a Board is looking to grant a variance and they let someone bypass the zoning bylaws, it shouldn't be an applicant who is already violating the bylaw. Now we also have substantial objections to the petition.

J. Creamer Do we have the authority to turn them down because they are not in compliance with other issues?

R. Read That hasn't been proven.

J. Creamer They are living with whatever the issue is but do we have anything to prove that stops us from what you are talking about here.

Atty. MacManus I would agree you don't have the authority to do that, you do have authority to turn down this petition based on notice and lack of hardship.

J. Creamer We could give the owner the opportunity to come back and prove hardship.

A Whiting I don't know if this would be considered a hardship but I did speak with Mr. DiPietro about this earlier. The BP station across the street has signs on all 4 sides, probably because it fronts on more than one street. His canopy has no

signs. I don't know if you would consider this a hardship, but all gas stations on adjacent corners compete with one another sometimes they get into price wars, from a competitive standpoint. So the PB station has their best face forward, and the CITGO has no signage whatsoever. I don't know if that would be considered a hardship but that is something to be considered.

Atty. MacManus The Shell Station also does not, that would not be hardship.

G. Sagar What the Shell Station has is two free-standing signs one on Taunton Avenue, one on Arcade Avenue.

Atty. MacManus They are on a corner lot.

Ch Groucke I wish this issue would get in front of this Board about what is going on back there, I would like to hash it out. There is a lot of history behind this, it goes back to a previous decision that we made on a previous project that Mr. DiPietro was going to do and we addressed the operation back there in the back of his lot, and that is part of the problem I guess. But now there are still a lot of complaints but I think the way to get it in front of us is to make a formal request and if the Building Inspector does not want to take an enforcement action and puts that in writing, the decision can be appealed to this Board. Then we can get the owner in here and find out what is going on back there. I would like to see that happen.

K Rondeau 17 Shady Lane, sworn in. I am a member of Board, I am not sitting on this petition. To your earlier point of notification, just be mindful of the fact that might be part of the strategy why he is not here because those petition were not sent out in a proper manner. I object to the sign for a couple of reasons, one there is a highly visible pylon sign on Taunton Avenue. He has signage, the second thing is there is no hardship shown tonight. Simply, CITGO wants it, just like any other retailer they want more signs. They all want it but that does not mean they are entitled to it. You can't look at this in a vacuum, you have to enmesh everything that is in the back with what is going on here because the past history for things that have gone on in that lot has been to do what they want to do when they want to do it. The sign would be no different. If you give a Variance for this sign, what is to say that they won't put bigger signs and now somebody has to go back and enforce what was presented? There is no reason to believe given the past history that they will do something beyond what is presented. You heard some other comments before about the negative impacts of the general safety, value, enjoyment of property etc., of all the abutters in the area. You ask now that you wish this could all come out. This is an opportunity for it to come out. It is enmeshed. You can't give a variance on this piece of property where there are issues without those things coming out and investigating those issues.

R. Read By Mr. MacManus's suggestion, Mr. Rondeau would be an abutter but he is not on the list.

George Cruz 10 Shady Lane, sworn in. I would like to see you at minimum table this, currently he is using residential property for industrial use. He is transporting septic; another tenant who is cutting and processing wood. He has another tenant who was power washing a trailer back there without improper drainages in place. He is abusing the use requirement for the business use on the property. To grant him a variance for the signs is piecemeal. There has not been a comprehensive discussion about what happens on that property and how it affects the abutters. Right now, if he was to put a gas station there, there would be screening, there would be all kinds of requirements, right now he has none of that. They say he is grandfathered in; it is a nonconforming use to this property. You can Google this property right now; you will see tractor trailers, wood trucks and everything parked in a residential zone. When they fire up at 5AM it affects everybody. On a Saturday, when you are out having a party, they are transferring septage which to the best of my knowledge, this town has never passed or designated an area where you can transfer septage. It is an industrial use. At a minimum, let's have him over here and have a frank discussion about this. If you are going to grant a variance which is a relief for a business owner, there should be some relief for the neighborhood. You can always stipulate if you grant a Variance, another stipulation that protects the abutters.

J. Creamer Don't we have an issue here of multiple businesses on one site?

Ch Grouke It was a previous decision when he came before us when he was going to develop the site into a big operation with a car wash and everything. We addressed that, it was put in front of us, I don't remember the specifics about what was addressed, included, allowed. I did not look at it in preparation for a sign request.

Richard Machowski 29 Shady Lane. Sworn in. I noticed you used the words stipulations. That was one of my key arguments when you were so good to allow me to appear the last time informally. Stipulations, they are fine; I know you issue them with good intent, but you still do not have a way to enforce it. You sat here a month ago and told me you do not have the authority to enforce your stipulations. There is no vehicle in place to enforce your stipulations. I am concerned about that.

J. Creamer It seems over and over again, we approve things here and there is nobody enforcing it whether it be LED signs or usage of property. People take

advantage but nobody is enforcing, we are spinning our wheels, I don't know how that gets addressed, but something needs to be done. I don't know if that is a BOS issue or what but something needs to be done.

Ch. Grouke Definitely, it is a problem.

R. Read I don't understand why the health officer won't get involved.

R. Machowski I approached that board and was ignored originally and all I can get from them is that they have been issued a permit and they said that whatever happens in zoning dictates what they do and it is okay with them.

J. Creamer If we approve something that has certain stipulations but the Board of Health, that has nothing to do with us.

K. Rondeau There have been numerous complaint by myself, and I know other neighbors, to the Board of Health, they all say I don't see an issue. There was a decision by this board in 2007, I don't believe it was ever filed with the Registry of Deeds but nothing was ever done there so the decision is null and void. The decision talked about the hours of operation that could go on at the property, they were operating outside those times. We called the police department, they couldn't do anything. The owners disregard us. We keep hitting our head against the wall nobody want to take ownership, we also feel that this is enmeshed. This is a sign petition for a variance, but by granting a variance on something when everything else is so entirely wrong, you wouldn't grant a Variance for somebody on a residential property if they had issues going on at their property, unless those issues were cleaned up. That is the case here.

J. Creamer They are handling waste, I think, I haven't seen it. Is this an issue that they shouldn't be back there at all? Or are they not doing it properly? Or if they are not handling it properly why isn't the Board of Health handling this?

K. Rondeau It is all of the above. I don't know why the board of Health is not handling this. This has been going on for many years, even before the ZBA's decision in 2007. By many years, it started around 1999-2000 getting bad. It is pretty bad if you can't invite people to your home for a cookout or open your windows on a nice day. That is what it has come down to. I am an abutter of it was taken the right way but I am not listed as an abutter this time. I am here because the petition was listed in the newspaper as public notice.

G. Sagar When the owner came before this board in 2007 were you notified then as an abutter?

- K. Rondeau I was notified for his original petition in 2004, and again in 2007. I think 2004 was the revamp of gas station and 2007 was the tower. This is the first time I have not been notified.
- Ch. Groucke At the time, he intended to utilize the entire lot. All the lots were going to be utilized in that petition. This one, the petition was only the front lot, that is why notice did not go out to you because you were not within the radius of the front lot.
- K. Rondeau He is choosing to not utilize the entire property.
- Ch. Groucke I think he chose the spot because that is where the signs were. Mr. MacManus said he believes you are not supposed to measure from the lot, you are supposed to measure from the petitioners property which would encompass the entire property. But you are here. If people weren't notified...
- K. Rondeau Some people said they were not coming because they weren't notified.
- J. Creamer The list of abutters is produced by the Town based on the lot they gave. The owner did state which lot.
- George Cruz The petitioner goes to the Town Hall and stipulates which lots something needs to be addressed. His business goes beyond that one lot. One of the problems you can address is industrial use in a residential zone. The trucks, wood processing, tractor trailer, he is nonconforming. I don't know how, or where we should go. This has multiple layers of problems.
- G Sagar We have several options, we could approve this with stipulations, the only way they could change the signage is if they conform with the stipulations but if it is too cumbersome for them, they could just say forget it and that is a waste of time. I think we have the right to refer this to our Zoning Enforcement Officer, and ask for a determination based on this complaint and to response back to us by a certain date. I think in the interest of transparency and openness, we should extend the line if demarcation if you will and notify anyone within 300 feet of this property anywhere and the Zoning Enforcement Officer will have to respond with a written determination and if it is not satisfactory to them, they have a further course of action or we can take action. They have the right to appeal it and they would come back here. The issue is not the sign, it is their quality of life and I don't blame them, if they have an opportunity to come before us and straighten this out once and for all; I wouldn't want to put up with this myself but there is a process and we have to follow it.

G. Sagar made a motion to continue the public hearing until January 22, 2013; abutters will be re-notified within 300 feet (of all property known to be owned by the petitioner) at the towns expense; forward this petition at Zoning Enforcement Officer for her determination (the signed petition by neighbors); Mr. Whiting will address in more detail the hardship issue, Seconded by J. Creamer; **and so voted unanimously by:** Ch. Edward F. Grouke, Ronald Blum, Gary Sagar, Jeffrey Creamer and Robert Read

VOTE: (Approve 5-0)

R Machowski I would like to remind the overseer of these directives to the building department. The people in question are well informed; there was found to be no violations the last time. I would ask her to not advertise the fact that she is going to inspect this, things change in an hour.

Ch. Grouke We cannot tell the Zoning Enforcement Officer when to go out to do inspections.

Work Session:

Approval of minutes 10/15/12

G. Sagar made a motion to approve the minutes from October 15, 2012, Seconded by R. Blum; **and so voted unanimously by:** Ch. Edward F. Grouke, Gary Sagar, Jeffrey Creamer, Ron Blum and Robert Read.

VOTE: (Approve 5-0)

Resignation of Jeffrey Creamer

G Sagar recognized the resignation of Jeffrey Creamer as he is moving out of state and the Board thanked him for his contribution to the ZBA.

Adjournment:

G. Sagar made a motion to adjourn the meeting, Seconded by R. Read; **and so voted unanimously by:** Ch. Edward F. Grouke, Ron Blum, Gary Sagar, Jeffrey Creamer and Robert Read

VOTE: (Approve 5-0)

Meeting adjourned at 8:47 PM

Respectfully submitted by:

Christina Testa, Secretary