

**SEEKONK ZONING BOARD
REGULAR MEETING
MINUTES**

March 11, 2013

Present: Ch. Edward F. Grouke, Robert Read, Keith Rondeau, Ronald Blum, Roger Ross

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, March 11, 2013. 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.

2013-01 **David John Duarte & Judy Ann Duarte**, 8 Pimental Drive, Rehoboth, MA, Owner by Amy Lynch, Sign Design Inc., 170 Liberty Street, Brockton, MA, 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 signage on the canopy of channel letters internally illuminated or ½" PVC letters (not illuminated), at 1472 Fall River Avenue, Plat 4, Lot 210 in a Local Business Zone containing 50,413 sq ft.

Amy Lynch Sign Design Inc., 170 Liberty Street, Brockton, MA. Sworn in.
Norman Manchester 211 Wheeler Street, Rehoboth, MA Sworn in.

Norman Manchester We are here to petition for two signs on the existing canopy. This canopy had signage before we did some painting. It was a "BP" location prior

now it is a "Mutual Oil" so now we need to change the image or brand on the signage. We took down three "BP" starbursts on three sides of the canopy and now we want to put up 2 "Mutual Oil" channel letters; one on each side.

Ch. Groucke In our packet we have a picture of the store, could you tell us the exact location of where you want to put the letters?

Amy Lynch They are facing the roadside so you see them as you are driving down Route 6.

N. Manchester (passed out graphics depicting what the site looked like prior to painting and putting new graphics on canopy) If you look at the front of the canopy, we want to put the signage on the two opposite sides going with traffic facing east and west, nothing on the front.

Ch. Groucke What are you proposing to put on there?

A Lynch We are proposing to put the letters. The canopy has been painted blue with two spots for "Mutual" letters if allowed. There are no signs there now, we took them down. The old signs were illuminated plastic pans with a 3-D logo, a sun that lit up.

N Manchester Just like the one down the street here on Taunton Avenue that lights up.

Ch. Groucke There is a free standing sign there now?

N. Manchester Yes.

Ch. Groucke Are there any questions from the Board? None at this time.

Ch. Groucke I will poll the audience. Is there anyone to speak in favor of the petition? None. Is there anyone to speak against the petition? None. Is there anyone with any questions? None.

K Rondeau What do you plan to put on the pylon sign?

A Lynch The rebrand was already permitted by the Town and allowed under the sign bylaw. It is the same size, only the colors changed. We only put the "Mutual" logo on what was existing. The colors changed and the logo was just swapped out.

K Rondeau Your application states illuminated or not illuminated. What are you looking for?

A Lynch Ideally illuminated like it was before but if not, we will keep just the plastic lettering.

N Manchester There is wiring there now.

R. Blum They are permitted one sign, this is just for the second sign.

Ch. Grouke In this situation it seems like there was already signage there. In a sense this is a replacement of what was already there. They had it on all three sides before and now they are only asking for two.

N Manchester There will be nothing on the front facing; it is blue with white stripe vs. the green stripes.

R Blum So you would like to see illuminated signs?

A Lynch Yes.

Ch. Grouke Maybe we should consider not going with the illuminated signs.

R. Ross I would like to know how it is going to be illuminated.

A Lynch LED channel letters. It is not a very bright light, it doesn't throw light it just lights up the letters.

R Read I believe they turn the lights on the freestanding sign off in the evening.

N Manchester I think they turn them off at 9:00 or 10:00.

R Blum I don't see this as worse than before; it is one less illuminated sign than before.

K Rondeau The biggest hurdle we have is a hardship for a variance. Driving down that road what building would they look for? All the traffic when driving south, you have to know exactly where you are going. I think having a sign on those canopies; it is not much of a hardship but it would help as a traffic safety standpoint. The signs are not critical but very helpful for the oncoming traffic.

R. Read made a motion to uphold the decision of the Building Inspector and close the public hearing, seconded by R Ross **and so voted unanimously by:** Ch. Edward F. Grouke, Ronald Blum, Keith Rondeau , Robert Read, and Roger Ross

VOTE: (Approve 5-0)

R Blum made a motion to approve two LED illuminated signs on the east and west sides of the canopy, seconded by K Rondeau **and so voted unanimously by:** Ch. Edward F. Grouke, Ronald Blum, Keith Rondeau, Robert Read and Roger Ross.

VOTE: (Approve 5-0)

2013-02 **Michael Andrade & Amelia Walsh Kern**, 228 Oak Hill Avenue, Seekonk, MA, Owners and Petitioners, requesting an appeal of the Zoning Enforcement Officer's Decision, and if necessary, a **Special Permit** under Section 5.2.3 and if necessary, a **Variance** under Sections 6.4 and 6.8 of the Zoning Bylaws to allow the construction of a 10' x 12' deck and stairs on an existing dwelling at 228 Oak Hill Avenue, Plat 38, Lot 11 in a R-2 Zone containing 35,820 sq. ft.

Michael Andrade 3 Pinckney Street, Taunton, MA sworn in.

Amelia Walsh Kern 16 John F. Kennedy Drive, Norton, MA sworn in.

M. Andrade We already purchased property and are midway into making renovations. We are looking to put a deck on the opposite side of the old one. The deck there now is falling down; the stair treads are falling down railing falling apart. The house is too close to the side line and the deck will get further away as you go to the back. I border a paper street too.

Ch. Grouke I will poll the audience. Is there anyone to speak in favor of the petition? None. Is there anyone to speak against the petition? None. Is there anyone with any questions? None.

R Blum The deck with the dimensions submitted are acceptable to petitioner.

K Rondeau I drove by the property; there is a lot of work being done on the house. This makes it more compliant by putting it in the back. They are taking an older home and restoring it; the setbacks are what they are.

R. Read made a motion to uphold the decision of the Building Inspector and close the public hearing, seconded by K Rondeau **and so voted unanimously by:** Ch. Edward F. Grouke, Ron Blum, Keith Rondeau, Robert Read, and Roger Ross

VOTE: (Approve 5-0)

R Blum made a motion to approve the Variance as requested, seconded by K. Rondeau **and so voted unanimously by:** Ch. Edward F. Grouke, Ronald Blum, Keith Rondeau, Roger Ross, and Robert Read

VOTE: (Approve 5-0)

2013-03 **Edward G. Medeiros**, 71 Raymond Drive, Seekonk, MA, Owner by Stephen E. Navega, Esq., 447 Taunton Avenue, Seekonk, MA, Petitioner, requesting an appeal of the Zoning Enforcement Officer's Decision, and if necessary, a **Special Permit** under Section 5.3 and if necessary, a **Variance** under Sections 7.4, 7.5 and 7.7 of the Zoning Bylaws to allow the extension or alteration of a pre-existing, legal nonconforming structure or use at 350 Taunton Avenue, Plat 19, Lots 513-516 and 500-503 in a Local Business Zone containing .43 acres.

Atty. Stephen E. Navega 447 Taunton Avenue, Seekonk, MA sworn in.

Edward Medeiros 71 Raymond Drive, Seekonk, Ma. Sworn in.

S. Navega I am representing Mr. Medeiros, the owner of the property on Taunton Avenue. This property was the liquor store that closed down some time ago. Mr. Medeiros is doing a lot of renovation on that piece of property. He is spending a lot of time, effort, energy and resources to improve the property. There is a house on the property and there is a more commercial building on the property. The property in question is addressed differently but it is all one particular piece of property. The residential piece of property has extensive renovations, new roof, new siding, new doors. He is currently going to ask that it remain residential, he will be renting that property out. If you look to the left, the commercial property he would like to amend his plans that were submitted so there will be no increase in the footprint and he wants to allow the use to be retail, it already is, and expanded office. He wants to move his current office from East Providence. There will be no expansion of the footprint of the building. He only wants to make the front door handicapped accessible; make it comply with current laws.

Ch. Grouke So the shaded areas, that was going to be additions. No more?

S. Navega No more. He is no longer requesting that. The existing house was going to be an office but now it is going to stay residential. I will explain what happened. He is near and affected by conservation. The scaled down version will allow us to do what we are requesting you to give us relief for without having to go to

conservation. The plan is to keep the residential house residential with the renovations. The commercial building will have no change in footprint so we can retain the use as retail and just expand the use to allow office use. There will only be renovation of both buildings and the handicapped access to the front door because we need two ways in and out.

Mr. Navega Submitted plans showing handicapped access.

Ch. Grouke So with this amendment, all we have to do is approve the use.

R. Ross The office use is really what you are looking for?

S Navega Well, there is office use there now. It is essentially retail but there is office use.

R. Blum Does he need a Variance for the handicapped access.

S. Navega Handicapped access is exempt from zoning. That is the only change in the footprint.

R. Read Do they plan to add on in the future?

S. Navega Yes, they do. We are not prepared to discuss that tonight. I think the plan is going to be first submitting a plan to the Building Inspector. We are not going to change the footprint, it would actually go up.

K Rondeau What kind of retail business?

Edward Medeiros Originally this was going to be a food market but now we found it was so close to the water line so it wouldn't be feasible to do that. I was also in the process of expanding my business. My business is credit card processing, merchant services and point-of-sales systems and we also do payroll. So this is an expansion of taking our office and taking our payroll and point-of-sale for restaurants they will be going there. We are going to dress it up. In the past 2 years I have bought 4 properties in Seekonk that were run down and foreclosed on and I fixed them all up. The house next to the building, one of my employees will be living in that house. The primary use of the property is for my sales office for the point-of-sales office and payroll finance. That is why I am putting in a handicapped access because it will be a sales showroom for restaurateurs business systems. It will not be a retail store with a lot of traffic. It is going to be a nice looking building with landscaping in the front.

S. Navega The retail sales will be by invitation only for demonstration and not really motoring traffic.

R Blum So you will not need 5.3?

S. Navega I think 5.3 is appropriate because of the use. It is a pre-existing legal nonconforming use so we do not need the variance because it is there; we are not going to encroach anymore except the handicapped access which is exempt.

Ch. Groucke I will poll the audience. Is there anyone to speak in favor of the petition? None. Is there anyone to speak against the petition? None. Is there anyone with any questions? None.

R Read It seems it is a win-win situation. The building isn't in great shape now but it will be when he is done.

R Read made a motion to uphold the decision of the Building Inspector and close the public hearing, seconded by K Rondeau and **so voted unanimously by:** Ch. Edward F. Groucke, Ronald Blum, Keith Rondeau, Robert Read, and Roger Ross

VOTE: (Approve 5-0)

K Rondeau made a motion to accept the amended plan and the petition as stated based on the amended plan as requested and grant the Special Permit under Section 5.3 as requested and the use as requested and no variance, seconded by R. Ross **and so voted unanimously by:** Ch. Edward F. Groucke, Ronald Blum, Keith Rondeau, Roger Ross and Robert Read

VOTE: (Approve 5-0)

2013-04 **Irene Dias,** Lancaster Street, Seekonk, MA, Owner by Stephen E. Navega, Esq., 447 Taunton Avenue, Seekonk, MA, Petitioner, requesting an appeal of the Zoning Enforcement Officer's Decision, and if necessary, a **Special Permit** under Section 6.2 of the Zoning Bylaws to allow 2 pet pygmy goats on a lot on less than 5 acres at 41 Lancaster Street, Plat 20, Lots 449-451 in R-1 Zone containing 15,000 sq. ft.

Stephen E. Navega I am an attorney with an office address of 447 Taunton Avenue and also a town resident. I reside at 175 Warren Avenue. I am here representing Irene Dias, who unfortunately cannot be here today but her two sons are here. I can tell you these pygmy goats are kept as pets. They are not livestock in any way, shape or form. They are not used for food or food products like milk or cheese. They are

family pets. I did some research, not knowing much about pygmy goats and found that they are family pets. They are friendly with humans and other animals, fun-loving, they love children. I drove by there the other day; they are kept in a nice neat yard, a nice area. The fenced-in closure has an outer weather shelter for them. They grow on average 16-20" tall and 35lbs. Research says if they are raised at pets, they can be as faithful as dogs. They can be raised in the house and can be house trained however that is not the case here. They are herd type animals so they need company that is why there are two of them. They come when called and like to be rubbed and scratched behind the ears. I have not done that so I cannot say from personal experience. They are small enough to pick up and carry except they are very nervous. There are some people here who want to voice their opinion however; I received an email from a neighbor who was not able to attend the hearing but wanted to support the petition. (Mr. Navega read the email into the record) Those two goats have been there for 7 ½ years. I read the potbellied pig decision from a number of years ago.

Ch. Groucke I will poll the audience. Is there anyone to speak in opposition to the petition?
None. Is there anyone to speak in favor of the petition?

David Karns 28 Quarry Street sworn in. Our back yard abuts theirs, we talk over the fence. We have been there 27 years. I don't really notice their noise. The noise level is nothing out of the ordinary I don't even see them. We are direct neighbors, there is no smell or noise they are in a pen, and they have never gotten out and into my yard. I have no problem with them.

Melissa Wheeler 24 Edison Avenue, sworn in. Irene is my mom. I go there with my children they feed the goats, pet the goats. They are gentle, they are calm, my kids have never gotten sick from them or been bitten by them. My daughter would be devastated if anything happened to them. They are adorable.

Rachel Robbins 20 Quarry Street. Sworn in. I abut the property. I don't even think I have ever heard them. They do not bother me, there is no smell. She is a wonderful lady and if that brings her pleasure I have no problem with them.

Mary Souza 25 Lancaster Street. Sworn in. My children and grandchildren have grown up with "Grandma Dias". The goats give her great pleasure; her son Billy lives with her. I can't hear anything, there is no smell they are cute and come when you call them

Alissa Nadeau 113 Ledge Road sworn in. (Mary Souza's daughter) I grew up in that house (25 Lancaster Street) and bought a house next door. There is absolutely no smell, otherwise I would not have bought a house so close. Please let her keep her goats.

Ch. Groucke Is there anyone else to speak for this petition? Mr. Navega.

- S. Navega The research shows these are not livestock. They are not used for food or any food product. They happen to be two females, Heidi and Katie. They are not used for any food product like milking or cheese. They are herd animals they are always as couples; that's how they get along and stay docile. They get along well with children, come when you call them. All websites I looked at refer to them as pets you can house train them. Livestock really refers to swine and cattle. They were bought as pets, raised as pets.
- R Blum There is a lot of support, but if you read Mary's letter that this was researched as a complaint but not from any one of these neighbors. If they had opposition they would have been here.
- S. Navega The interesting thing about objections, you can object anonymously to the Building Inspector which would have her investigate.
- K Rondeau She referred to them as livestock and she cites the bylaw correctly that keeping of livestock on less than 5 acres is in violation of section 6. 1.
- S. Navega I submit to you they are not livestock they are pets. The animals that are not traditional pets are still pets. I think she took the safe road and determined they are livestock and therefore not allowed. But the Zoning Board has the opportunity to determine that they are pets and not livestock and as such they can be allowed in a residential zone on less than 5 acres.
- E Grouke Based on what we heard tonight it is hard to conclude that they are livestock, they are little tiny animals.
- R. Blum I did some research too and just pulled up another website while we are sitting here and it does say, "A pygmy goat is a small breed of domestic goat and they are also kept as pets in urban and suburban back yards." The definition of pet has changed in recent years. This is not the first issue we have had before us, we had Homer the potbellied pig, and I am sure it is not the last one that will come here. I don't think there is a major issue. If there was a pouring out of neighbors that had concerns of smells or noise, I would probably feel a lot differently about this situation. They are not slopping hogs or cattle. I would be inclined to agree with Roger, they are herd animals, limit it to two, that is fine. This might be something where they can't be replaced when they pass on. I am not sure what the life expectancy of a goat is.
- Unknown speaker About 9 years.
- Cheryl Karns 28 Quarry Street, sworn in. We are all here on our own. We did not get a phone call asking us to come. I am getting emotional myself because they are better than dogs. We have been there 27 years. She has had pets in the past that have

been goats and they have never been any problem. I have talked with Mrs. Dias and she is 83 years old and she said her only wish is to see her goats there until the end of time and they give her great pleasure.

R Ross When you look at 6.2.3, the cited section, it is footnoted; "Owners of animals kept as pets or projects on properties not devoted principally to farming shall conform to relevant Town By-Laws." I don't know what the relevant Town By-laws are but clearly on the face of it that is an exception that fits this application. Clearly your client's lot is not devoted principally to livestock and your position is that the two pygmy goats are pets so I think that fits four square on the footnote subject to the relevant Town By-Laws.

Atty Navega I can tell you, Section 6.2.3 "farms under 5 acres devoted principally to raising livestock" is not appropriate to my position because I am suggesting that they are not livestock they are pets. But I can tell you if this was a farm under five acres and it was livestock you would need a manure management program and fencing but this is not the situation because this is not a farm and it is not principally raising livestock.

R. Ross This is not principally a farm and I think the 'footnote 1' takes it out of the relevant Town Bylaws which I don't know what that is.

R. Read The sentence also "principally to raising livestock" to me denotes breeding and that is not happening.

Ch. Grouke To follow up on your point Roger, it talks about animals kept as pets and that seems to be what they are, animals kept as pets they are not livestock.

R. Ross The record is clear on that.

K. Rondeau If approved, does the Special Permit stay with the property or the person?

S. Navega A Special Permit stays with the person not the property.

R. Ross You or your client would have no problem if that was a condition of approval?

Ch Grouke For my part, it seems that the evidence is that the goats are not livestock. There is no indication that they are being raised as livestock. They are not being used for breeding, food or anything like that. They are strictly pets, they are small, they don't make noise, they don't smell, they fit all the definitions of being a pet. It seems to me that we have the ability to grant a Special Permit with conditions and it would fit with this particular property and this particular owner and we could do that without setting any type of precedent and opening up the floodgates.

R Ross And just to be clear, when we say condition to Mrs. Dias' lifetime, I see that she is a Life Tenant. The pygmy goat approval, if approved, would not run to the remainderman, only Mrs. Dias. There are remainderman who have interest now. I just want to make that clear.

R. Blum made a motion to uphold the decision of the Building Inspector and close the public hearing, seconded by K Rondeau and **so voted unanimously by:** Ch. Edward F. Grouke, Ronald Blum, Keith Rondeau, Robert Read, and Roger Ross

VOTE: (Approve 5-0)

Further Discussion

K Rondeau With Homer (the potbellied pig) we didn't know what we were getting into. A pig is a pig, that is what I said and it is livestock. Here a goat is a goat and it is livestock. However, there is history here and has been since 2000 and the Karns have testified there have been goats there as pets for 27 years they must be pets in this particular case. I think we are being presented with something different here. That was livestock that they were training to be a pet. These are already pets. There is a track record that these are pets.

R Ross made a motion that the application for the Special Use Permit for the pet pygmy goats be approved with the following conditions: that the number of pygmy goats be limited to 2 in number and not more; that the life of the Special Use Permit be limited to the natural life of the applicant Irene Dias, currently the Life Tenant and not run either with the land or the benefit of the remainderman upon Mrs. Dias' passing; hopefully many years down the line. The basis for that motion is the same that I articulated a few moments ago. I believe in my reading of Section 6.2.3 of the Zoning Ordinance, the footnote takes this application out of the principal farm-use element and the evidence we heard here tonight which is uncontradicted, is that these animals have been raised as pets and treated as pets, and for no commercial or other livestock use. Of course, we have the support of all the neighbors who appeared here with nobody objecting. I think fair reading of the Zoning Ordinance and consideration of the evidence we heard, for those reasons I move to approve. Seconded by K Rondeau **and so voted unanimously by:** Ch. Edward F. Grouke, Ronald Blum, Keith Rondeau, Roger Ross and Robert Read

VOTE: (Approve 5-0)

Work Session:

The Board determined that the next meeting will be May 6, 2013

Approval of minutes:

R. Blum made a motion to table approval of the minutes from January 22, 2013 until the next meeting, Seconded by K. Rondeau; **and so voted unanimously by:** Ch. Edward F. Grouke, Ronald Blum, Keith Rondeau, Robert Read and Roger Ross.

VOTE: (Approve 5-0)

Adjournment:

R Ross made a motion to adjourn the meeting, Seconded by K Rondeau; **and so voted unanimously by:** Ch. Edward F. Grouke, Ronald Blum, Keith Rondeau, Robert Read, and Roger Ross

VOTE: (Approve 5-0)

Meeting adjourned at 8:10 PM

Respectfully submitted by:

Christina Testa, Secretary