

**SEEKONK ZONING BOARD  
REGULAR MEETING  
MINUTES**

**July 1, 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, July 1, 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.

**2013-12 Keith Rondeau**, 17 Shady Lane, Seekonk, MA, Petitioner by Donald MacManus, Esq, 546 Arcade Avenue, Seekonk, MA, Appealing the failure of the Inspector of Buildings/Zoning Enforcement Officer to enforce the Seekonk Zoning Bylaws as requested under G.L. Chapter 40A, Sections 7&8, and Seekonk Bylaws Section 14.2.1. The action requested is relative to enforcement of the Seekonk Zoning Bylaws limiting commercial activities at and behind the premises at 392, 394 & 400 Taunton Avenue, Plat 19, Lots 434-440, 490-491, 465-471, 525-526 and 487 in a Local Business and R-1 Zone.

Ch. Grouke As a private attorney has represented one of the members in this case. I apologize for notifying the petitioner only last week, and the reason for that is that my representation is limited and I also don't have any financial interest in the outcome of this case as it would affect anything I do with that party; but having any representation is probably enough to disqualify me, and as such I came to the

conclusion that it would not be right to sit on this petition. I am going to step down from it, and I'll let the Board discuss what they are going to do giving the fact that there will only be four of us to consider the petition tonight.

R Blum: We will need all four votes to pass the application so the option is to table the case until the next hearing to see if we can get an appointed alternate member of the Board of Selectmen to have a full panel.

G Sagar: The town has had a help wanted sign out for quite a while. We have two openings for this; I have reached out to a couple of people and hopefully we will hear sometime in the month of July. In order for them to be seated, they will have to be appointed either next week or by the 24<sup>th</sup> of July. We can go forward with a four person board, but it is left to option of the petitioner if they would like to continue and have a full board because it is unfair to a degree to the petitioner because he has to get 100 percent for any action.

G. Sagar: We would like to ask what you would like to do-- if you would like to be heard now or if you would like to wait to have a five person panel in about a month's time?

D. MacManus: We were made aware of this on Thursday; and I think we are forced to ask for a continuance. The local residents are really not happy about this. Obviously they've come to a hearing and now they will have to wait several more weeks. People have changed their vacation schedule. We did notify neighbors not to come tonight; I'm not necessarily criticizing this board, but it really is one more delay to get what we are trying to get.

G. Sagar: My suggestion was going to be that even if we did not take testimony, it would be continued to a date probably in August to allow the time for the board to do a site visit; that is my perspective of this board rendering any kind of decision tonight so if it was the will of petitioner and the approval of the Chairman that the testimony was to go forward it would be continued to another hearing in August.

D. MacManus: I believe that we would still need a five person hearing.

G. Sagar: Under the Mullin rule, open meeting law, it allows, if a member was to join say a second meeting, he would have to make a certification that they reviewed the transcript or video or minutes of the meeting and they feel that they are fully informed as to what the issue is.

R. Ross: What I did--consistently the Mullen rule was—I would viewed the CD, the hearings, and I read the minutes of the hearing to familiarize myself with the testimony and then there was subsequent testimony at the first meeting that I sat and I felt very comfortable. Prior to certification I felt very comfortable, and I

would assume that any appointed member would do precisely the same thing; but again, it is up to you.

D. MacManus: We advised people not to come tonight based on an assumption.

R. Blum: And like Mr. Sagar mentioned, in most cases, we think that a site visit is important that we would like to go out; we have to set that up for a week or two according to your schedule. Maybe we can schedule that and also have a meeting set up.

D. MacManus: That would be fine. The main complaint is one of the problems the residents have had, is every time they call someone from the town the people don't show up for an hour and a half. Something has to be worked out with the board along that line—I'm not sure what that would be. That would be helpful as far as a site visit. But as far as the site visit, it might not turn up an awful lot.

G Sagar From my perspective, I do not have to witness an odor to be convinced there is an odor. I would suggest that maybe they call the police and get a police report.

G Sagar I believe there was one other issue, the question of standing.

R Ross That has been resolved in my mind.

G Sagar We need to set a hearing date.

G. Sagar made a motion to conduct a site walk on the property at 6:00 PM followed by the public hearing at 7:00 PM on Monday, August 5, 2013 and instruct the Board's clerk to send a certified letter requesting permission from the property owner to enter the property, Seconded by R. Ross; **and so voted unanimously by:** Ronald Blum, Gary Sagar, Robert Read, and Roger Ross

**VOTE: (Approve 4-0)**

The Board instructed the Clerk to send a letter to the land owner, certified letter requesting site visit to the property.

Richard Machowski 29 Shady Lane sworn in. I am part of this petition. I am curious to know, what efforts this petition was filed a couple of weeks ago, probably close to two months it has been out there for quite a while for everyone to see for those who are interested. But was every effort made to solicit, I heard your comments earlier about getting people to step forward, but if I got it right, I guess the BOS could sit in on this thing or someone they designated.

G. Sagar Yes, but they would have to be appointed and it is a three year term.

R. Machowski But it could be done.

G. Sagar Yes, but for three years

R. Machowski I mean as an alternate.

G. Sagar They would be an alternate for a three year term, but if someone came forward they would have to resign. That would be the last resort, if we don't get somebody in July that would be my recommendation to the Board of Selectmen on the 24<sup>th</sup> that one of the members be appointed to sit.

R. Machowski As it applies to tonight, as an alternate, because we have a unique situation where there are two guys down what I am understanding is that no other member of that Board was willing to step in to sit just for this hearing or were they not asked?

G. Sagar They weren't asked.

R Machowski That doesn't sound...

G. Sagar We were made aware of a potential conflict after the last Board of Selectmen's meeting, so there was no time to appoint someone. The only way we could have done it is to convene a special meeting.

R Machowski My point being, this was 7-8 weeks ago this petition was filed, so anyone who had a conflict had plenty of time to state that and make an effort to have this Board eliminate a lot of bologna that we just went through trying to make things fit again, we could have eliminated all that had an effort been made to have a replacement even if it was just for this one petition, to sit here for a half an hour get it over with and go forward. That wasn't even done; I was told that it was done and that nobody else was available.

R. Blum This probably has never happened, it is a rare situation. I apologize we try to give you a full board so it is a fair vote.

R. Machowski I am thankful for that but it is very inconvenient for a lot of reasons. You know, there are a few other people involved in this thing. To be quite frank with you, as we delay, the cash register keeps getting rung up.

G. Sagar I would just like to add in fairness to our Chairman he is recusing himself and taking a very high road. I think the argument could be made that he does not have a conflict but he is taking a high road and I applaud him for that.

R. Machowski I don't have any discrepancies why he is doing what he is doing my problem is the time frame because there certainly was a lot of time to do whatever you have to do. If there is a problem, it didn't come up yesterday, Monday or last week. It has been there for a long time. We had options and it is unfortunate because the burden lies with us because of this. I just wanted to make the Board aware of that.

R. Blum We will work very hard to get this taken care of.

**2013-07 Inland Western Seekonk Power Center**, PO Box 9273, Oak Brook, Illinois, 60522, Owner, by Pretorius Electric & Sign Co, LLC, 267A S. Main St, W. Bridgewater, MA 02379, Petitioner, requesting an appeal of the Zoning Enforcement Officer's Decision, and if necessary, a **Variance** under Section 12.4.2.3 to install a sign in excess of Bylaw at 275 Highland Avenue, Plat 8, Lot 139 in a Highway Business Zone containing 105,859 sq. ft.

Ch. Grouke This matter was continued from May 6, 2013 at the request of the petitioner.

Richard Pretorius 267A S. Main St, W. Bridgewater, MA 02379 sworn in. We are seeking a variance to get a letter sized larger than 4 feet due to the size of the store front and the distance from the street. The square footage is well below the 5% of the wall area that is allowed. It would be a 5' 5 3/8 " tall letter "M" in "Michaels", the scale of the storefront requires a larger sign that can be read from the street. The building is approx 300' from the road. There is no sign there now. I think it was Linens and Things and they had a 5' sign on there. They have had a lot of tenants in that spot.

G. Sagar It is where the Ultimate Electronics was.

Ch. Grouke How does the proposed sign compare to the one that is on the building where they are now?

R. Pretorius They have gone to a different letter style; the new "M" has a tail coming down. The old letter sign is a 4' "M". If you went down to a 4' "M" the whole sign would shrink down and would be illegible from the street.

G. Sagar They are in a 21,700 sq ft building now, and they are moving into what was Ultimate Electronics, they are more than doubled.

R. Pretorius Yes, they are doing quite well and they are doing this with a lot of other stores; relocating to larger stores.

G. Sagar Business must be good, that is good to hear in this economy.

- R. Blum            In comparison with the old store, is this going to be LED backlit?
- R. Pretorius      The other store is neon old style; this is black and lights up white at night.
- G Sagar            In their current location several years ago, several of those stores petitioned the Board for additional signage on the side facing Highland Avenue for Bed Bath and Beyond. We made an accommodation for additional signage because o the setback off the road. I think this falls in line with the same thought process.
- Ch Grouke        Is there anyone to speak in favor of the petition? None. Is there anyone to speak against the petition? None.
- R Ross             Will the relocation take place within the next year?
- R. Pretorius      Yes, within the next couple of months. They are doing construction now.

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

**VOTE: (Approve 5-0)**

G. Sagar made a motion to approve the petition as submitted, Seconded by R. Blum; **and so voted unanimously by:** Ch. Edward F. Grouke, Ronald Blum, Gary Sagar, Robert Read, and Roger Ross

**VOTE: (Approve 5-0)**

**2013-09 Town of Seekonk**, a Municipal Corporation with its principal business address at 100 Peck Street, Seekonk, MA, 02771, Owner, by Mr. Nelson Almeida, Chairman, Board of Selectmen and Mr. Donald Kinniburgh, Chairman, Seekonk Veterans Memorial Park Committee, Petitioners, requesting an appeal of the Zoning Enforcement Officer's Decision, and if necessary, a **Special Permit** under Section 6.2.9 of the Town of Seekonk Zoning Bylaws to allow a Veterans Memorial Park at 410 Newman Avenue, Plat 24, Lots 61, 65 and 567 in a R-2 Zone containing 385,942 sq. ft. (Request to withdraw without prejudice)

Ch Grouke read a letter dated June 13, 2013 from Nelson Almeida, Chairman, Board of Selectmen requesting to withdraw the petition without prejudice into the record.

G. Sagar made a motion to close the public hearing and grant the petitioner's request to withdraw without prejudice, Seconded by R. Ross; **and so voted unanimously by:** Ch. Edward F. Grouke, Ronald Blum, Gary Sagar, Robert Read, and Roger Ross

**VOTE: (Approve 5-0)**

**2013-10 Henry Turner**, 42 Pleasant Street, Seekonk, MA, 02771, Owner, by Derek Dechaine, 40 ½ Jackson Street, Taunton, MA 02780, Petitioner, requesting an appeal of the Zoning Enforcement Officer's Decision, and if necessary, a **Variance** under Sections 6.4, 6.5, and 6.8 of the Town of Seekonk Zoning Bylaws to allow a 16' x 22' addition to an existing dwelling at 42 Pleasant Street, Plat 20, Lots 326, 327 & 328 in a R-1 Zone containing 14,400 sq. ft.

Derek Dechaine 40 ½ Jackson Street, Taunton, MA. Sworn in. Henry Turner, 42 Pleasant Street, Seekonk, MA. Sworn in.

D Dechaine This proposed addition, according to the Building Inspector, there are three things we need a Variance for; the minimum lot width measured at the rear; the required front yard and required depth of front yard and minimum width of interior side yard. It is because where the house was put on the lot and because it is on a corner lot. The addition is facing Pleasant Street and there is a tree line there and I don't see anything being affected by it.

H. Turner We want to extend the living area, it is a small house and our family is growing. The house is pretty close to the property line.

G Sagar The plat was created in 1925 and predates zoning.

R. Read I think a lot of the houses on this street have the same problem.

G. Sagar Even if we grant the Variance, the addition on the house will be the most conforming part of the lot.

R Ross It is not exacerbating the existing encroachments. To the extent that it is from the side property line parallel to Arthur Street, it is still within the requirements.

Ch Grouke 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.

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, Ronald Blum, Gary Sagar, Robert Read, and Roger Ross

**VOTE: (Approve 5-0)**

G. Sagar made a motion to grant the petition as submitted, Seconded by R. Read;  
**and so voted unanimously by:** Ch. Edward F. Groucke, Ronald Blum, Gary  
Sagar, Robert Read, and Roger Ross

**VOTE: (Approve 5-0)**

**2013-11 Seekonk Mall Trust** 1 Ann & Hope Way, Cumberland, RI 02864, Owner by Irwin Chase Petitioner, requesting an appeal of the Zoning Enforcement Officer's Decision, and if necessary, a **Variance** under Section 7.5 to allow the construction of a new restaurant within the front yard setback at 35 Highland Ave., Plat 8, Lot 33 in a Highway Business Zone containing 666,468 sq. ft.

Gus Raposo I am the engineer for Seekonk Mall Trust, with me is Mr. Irwin Chase. Sworn in. Seekonk Mall Trust has hired me to do the site design from concept to construction this plaza is the old Ann and Hope. I am the project manager, project coordinator. This plaza has been redeveloped, the old property line was here but when the lighting on Route 6 was installed in 1975 the State right-of-way changed creating a problem in developing this outparcel. If we put the outparcel here it could not comply with the 75' setback but if we put it father back, we could not comply with lease agreement with other stores. The project consists of a 3,000 sq ft Vision Works retail building and a small 2,500 sq ft restaurant Chipotle Grill; with a 500 sq ft patio outside and no drive thru. They could not move the building to the right because there are two existing leach fields. We are 86.7 feet from property line, the required is 70 feet. We would be in compliance if the property line was here. Just for reference, Applebee's restaurant is 2 from property line but true property line is here. We will be before the Planning Board next week, we will get construction plans done in July or August and start construction in September. If it all goes well, we will have a new project by Christmas. After landscaping and lighting, basically one quarter of the plaza is going to be revamped.

Ch. Groucke So Applebee's is within the setback.

G Sagar How did Applebee's get built without a variance?

G. Raposo I don't know.

R. Ross Other than the setback from Route 6, you are going to fully comply with the ordinances. Also, what kind of a business is Vision Works?

G. Raposo Yes, we will comply. Vision Works sells eye glasses.



G. Sagar This developer has been doing work in our town for a long time, he has been great for our town. I think it is great he wants to further invest in our community.  
*Inaudible.*

Irwin Chase Our Seekonk store was very successful. We had wonderful employees and customers. We were the first large store on Highland Avenue. We found it necessary to downsize. We have 12 stores but they are much smaller. We have stayed in business in spite of the Wal-Mart and Home Depot. I have enjoyed doing business in Seekonk.

Ch Grouke 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.

Neal Abelson 1588 Fall River Avenue. Sworn in. This is an excellent project; it will be nice to have it in town.

R. Ross If the Board votes to approve this, shouldn't it be subject to Planning Board approval next month?

G. Sagar It already is. We say subject to all Boards

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

**VOTE: (Approve 5-0)**

R. Ross made a motion to grant the petition as submitted, Seconded by G. Sagar; **and so voted unanimously by:** Ch. Edward F. Grouke, Ronald Blum, Gary Sagar, Robert Read, and Roger Ross

**VOTE: (Approve 5-0)**

### **Work Session**

G. Sagar Discussed reorganization of the Board. Chairman Grouke requested that the matter be put on the ZBA agenda for August 5 but requested that the fifth regular member attend to vote.

Ch. Grouke We have a letter from the Senior Center Building Committee dated today.

G. Sagar Are they not also requesting an appearance before this board and a public hearing? Would it make sense to address this letter at that time?

Ch. Grouke Yes. At their last meeting it was voted to submit final plans of the Senior Center for ZBA Approval. They would require a public hearing, legal advertisement and abutter notification.

**Approval of minutes:**

R Ross made a motion to approve the minutes from May 6, 2013, Seconded by R. Blum; **and so voted unanimously by:** Ch. Edward F. Grouke, Ronald Blum, Robert Read and Roger Ross.

G. Sagar abstained as he was not present at that meeting.

**VOTE: (Approve 4-0) 1 abstained**

**Adjournment:**

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

**VOTE: (Approve 5-0)**

Meeting adjourned at 8:00 PM

Respectfully submitted by:

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Christina Testa, Secretary