

**SEEKONK ZONING BOARD  
REGULAR MEETING  
MINUTES**

**May 2, 2016**

Present: Ch. Roger Ross, Robert Read, Keith Rondeau, Neal Abelson, Gary Sagar

7:00 Chairman Roger Ross called the meeting to order.

Ch. Ross This is the meeting of the Town of Seekonk Zoning Board of Appeals, May 2, 2016. It is 7:00PM and the meeting is now in order. I am going to go over our procedures; I will read the agenda for the public hearings for this evening and call the cases in the order in which they appear on the agenda. Counsel for the petitioner will be called to make a statement, if he/she deems it necessary and call the appropriate witnesses. At some point various members of the Board may have questions of the witnesses and we will ask them and get the appropriate responses. We will ask if there are any members of the public who would like to speak in favor of or in opposition, all questions shall be directed to the chair and answered. As the cases are presented, the owner, petitioners and/or their representatives, will present the case and the Board may have some questions and we expect that those questions will be answered. After the petitioner has presented his case, anyone who wants to speak either in favor of or in objection to the petition, we will hear. All witnesses, except attorneys, if there are any this evening, will be sworn in and all testimony will be taken under oath. If there are questions from anyone in the audience, all those questions should be directed to the Chair, there will be no colloquy between a witness and a member of the audience. At some point, we will close the public hearing; there may be some discussion between members of the Board, we may ask for some clarification. It is typically the practice of this Board to take a vote tonight on a matter but we are not required to do so. There may be times and circumstances that arise where we will delay a vote. If the vote is taken, the decision of the Board will be reduced to writing and posted in accordance with M.G.L. Any person or entity who feels they are aggrieved by the decision of the Board has the right to appeal to the appropriate courts of jurisdiction of the Commonwealth but I caution anyone who elects to do so that they are limited by very strict time requirements and I advise any such person to either consult the laws or an attorney if they choose to file an appeal. Having said that, I will read the agenda for this evening. We have three matters that are up for public hearing.

**(Chairman Ross read the agenda into the record)**

Ch. Ross: The three matters appearing on the agenda this evening are Case numbers 2016-07 and 2016-08, zoning rules and regulations and some old business:

**2016-07 Aspen Properties Holding, LLC**, 302 Broadway, Suite 5 Raynham, MA 02767 Owner, by KJEC Development, LLC, 401 County Street, New Bedford, MA 02740, Petitioners, requesting a **Variance**, under Section 5.1.4 of the Town of Seekonk Zoning Bylaws for relief from the minimum required side setback of 15'+5' for every story above one to 12'8", at 135 Ledge Road., Plat 49, Lot 589 in an R-1 Zone containing 17,042 sq ft.

**2016-08 Brian J. McLaughlin**, 323 Manley Street, P.O. Box 519, West Bridgewater MA 02379 Owner/Petitioner, Brainsky Levinson, LLC, 1547 Fall River Avenue, Suite 3, Seekonk MA 02771, requesting a **Variance**, under Section 8.8.4.6 of the Town of Seekonk Zoning Bylaws, for a 59.8 sq. ft sign face (119.6 sq ft total) from the 120 sq. ft maximum (in this case 240 sq. ft. total) at 120 Highland Avenue, Plat 8, Lot 131 in an Highway Business Zone containing 89,999 sq ft.

**ZBA Procedures and ZBA Rules & Regulations**, Amendments of the zoning board of appeals procedures and rules & regulations is proposed, the purpose is to more clearly reflect administrative procedures of the Zoning Board of Appeals and to bring the aforementioned documents in conformity with Massachusetts General Laws. **(Continued from 3/21/16)**

Ch. Ross: We have new business which is listed as approval of minutes of the April 11, 2016 meeting, and I'm told that's going to be deferred to the next meeting because those minutes are not prepared yet. Anything else, gentlemen? No? Okay, so the first matter is 2016-07 Aspen Holding properties LLC, if you'll come forward please

Christian Farland: Good evening Mr. Chairman, board members, for the record, Christian Farland, principal engineer with Farland Corp,

Ch. Ross: Would you raise your right hand

C. Farland: Here tonight representing KJEC Development, LLC

Ch. Ross: Would you raise your hand, please? Do you swear or affirm that the testimony you are about to give will be the truth?

C. Farland: Yes,

Ch. Ross: You may proceed sir,

C. Farland: Thank you, the subject property is located 135 Ledge Road, it's located on the southerly side of the road way and it's located in a residence 1 zoning district, the site itself, combines total is 93,100 sq ft. The applicant, we're here tonight because the applicant is looking to subdivide this parcel as you can see in the plan that you have, basically the brown area is the house that sits along the frontage and it does have a shed, and behind it, that proposed parcel is roughly 17, 015 sq .ft and 103.06 feet of frontage. Plus that lot meets the zoning requirements. We're here seeking the variance because the applicant is looking to develop the parcel in the rear, and eventually we'll have to go through the planning board as well, for a definitive subdivision. The setback requirements are 15' plus 5' for every one story, the applicant has 13.4 feet from to the side setback, from the dwelling and

12.8 feet from the small shed in the rear, the abutting properties, which I may, Mr. Chairman, just ask the board to accept this, place this on file?

Ch. Ross: Bridget, would you mark that

C. Farland: It's just basically an aerial,

Ch. Ross: petitioners 1, please?

C. Farland: aerial of the assessors

N. Abelson: How big is shed?

C. Farland, How big is the shed?

N. Abelson: Yeah,

C. Farland: I think it's actually smaller than 10 by 10

N. Abelson: Ok

Ch. Ross: Ok it's less than

C. Farland: It can actually be moved if it had to

Ch. Ross: It's less than 200 sq ft in any event

C. Farland: So I wanted to place this on file, just to give you a rough idea if you haven't had a chance to go by the area, a lot of the surrounding area is made up of old grandfathered lots, which some of which had, obviously haven't been combined, (inaudible) 5,000 sq. ft. most of them in the area probably range an average of 15, 000 sq. ft but some are actually smaller, and the setbacks from those are certainly less than what we're proposing tonight. We did receive a letter from the town planner John Aubin III, which he recommended that the board, if the board does grant this variance tonight, certainly the applicant, the petitioner and the board make a condition that that has to go through subdivision control, planning board rules and regulations for a definitive subdivision as I mentioned. Ultimately that would be the next step for the petitioner. And I say in order to do that it has to be a roadway there that leads back, to the remaining

Ch. Ross: Just so the record is clear, are you talking about from John Aubin, a memorandum dated April 25<sup>th</sup> of this year?

C. Farland: Correct,

Ch. Ross: Okay

C. Farland: Thank you,

Ch. Ross: You have that, Bridget, right?

C. Farland: As you many know, the zoning board does have the power to grant a variance requested tonight, as long as the petitioner shows the hardship criteria and in this case, I think it's a really good case of hardship, sometimes you have projects that come in front of you, they only may meet one hardship, this project tonight meets all three of the criteria which in this case, it's the shape of the lot, it's a long narrow lot, has the 93,000 sq ft lot as you can see, (inaudible) parcel which is only used for zoning 17,000 sq ft, the remaining is a lot left the reason why we can't access this parcel from anywhere else is because of the topography in the rear of the back and the soil conditions, there are wetlands if you are familiar with the development behind this project that's why you have a lot of paper streets around here, because they go over wetlands area, which you can't put a road way across without doing some substantial permitting. And that's the criteria so we have the shape of the lot and the soils conditions, and the topography in the rear of the lot, which make it inaccessible from them rear. I believe the plan that we presented

and the facts presented in my presentation support that desired relief can be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent for purpose of the Town of Seekonk's by law. I'm glad to answer any conditions that the board may have or abutters at this time, Mr. Chairman.

Ch. Ross: I've got, what's inside the chain link fence?

C. Farland: chain link fence? To the rear?

Ch. Ross: To the rear

C. Farland: A small little garden area

Ch. Ross: I'm sorry?

C. Farland: A small little garden area, temporary

Ch. Ross: Do any members have any questions, of this witness, at this time? Hearing none, do you have any further witnesses?

C. Farland: I do not

Ch. Ross: Do you have anything else to submit to the board?

C. Farland: Nope, I just want to make sure that the um, that the um, abutters are well aware that this, this process tonight isn't for the subdivision approval, I do have to go through the planning board process in which, at that time any abutters can address their concerns about storm water, safety, public safety issues or anything like that.

Ch. Ross: This is only for lot 1,

C. Farland: Correct

Ch. Ross: Tonight,

C. Farland: And it's actually not for that either, because we still have to file with the planning board for an ANR (inaudible)

Ch. Ross: You're in front of us this evening

C. Farland: Just for the variance

Ch. Ross: Only for the setback area

C. Farland: Thank you,

Ch. Ross: Okay, having no questions from any of the members, is there anyone in the audience that wishes to speak in favor of this petition? Hearing none, is there anyone in the audience who wishes to speak in opposition to this petition?

Audience Member: Can we see what's on that board?

Ch. Ross: Sure, can you just turn that

C. Farland: (inaudible) it'd be easier

Ch. Ross: Yeah, just show it to them

G. Sagar: It's the same plan

Ch. Ross: Hmm?

G. Sagar: It's the same plan we have on file

C. Farland: Mr. Chairman, do you want me to answer that?

G. Sagar: If they're going to make, if they're going to make questions, I'd like to have them come to the podium

Ch. Ross: Absolutely, that's what, if anyone has any questions, even if you are not speaking in opposition, please come to the podium and be sworn in. Would you raise your right hand please? Let's back up, will you state your name for the record and your address?

M. Andrews: Matthew Andrews and I just signed the purchase and sales on 135 Ledge Road the property that is in question tonight.

Ch. Ross: Oh, ok,

M. Andrews: And I knew nothing about anything because it wasn't disclosed or anything, except for the purchase and sales contract

Ch. Ross: Hold on a second, hold on a second please, I got caught up, now will you raise your right hand? Do you swear or affirm that the testimony you are about to give will be the whole truth?

M. Andrews: I do,

Ch. Ross: Okay, continue please

M. Andrews: So I just wanted to get a clear idea of what was going on because nothing was addressed to us, or told to us in any way. I found out through a neighbor actually, what was being planned here, so. My question to him was, there is a two (2) acre lot right here? And I don't mean to address him, but I'll address you guys, a two acre lot here, directly behind the dwelling and then there's lot back here that I was told that were going to be subdivided into separate lots, as I can show you here. This is the house, Can I show this?

Ch. Ross: Sure

M. Andrews: So I was given this by you guys, that the building was going to be built on the x's here. Not directly behind the 135 Ledge on that two acres, but it sounded like, what he just said it's being built on those two acres.

Ch. Ross: Ok, why don't you step back,

M. Andrews: Sure

N. Abelson: That's going to be a problem because the subdivision hasn't been laid out yet.

Ch. Ross: What, what we're talking about this evening, as you look at that plan, is the small lot, with the existing home that fronts on Ledge St.

M. Andrews: Here [pointing to the plan]

Ch. Ross: Yes, that's the only issue here this evening.

M. Andrews: Okay, I apologize

Ch. Ross: Okay, no, no it's ok

M. Andrews: Is this the shed you were talking about, that could be easily removed or moved? [pointing to plan]

Ch. Ross: That's what he said,

M. Andrews: Well, that would be my shed, so

N. Abelson: Or just moved

M. Andrews: Okay, so it would affect that, is there like a road going through the shed?

N. Abelson: No, no, you have to have, well, go ahead Roger, I'm sorry

Ch. Ross: No, go ahead

N. Abelson: You need a certain setback off the side yard and it's supposed to be 15' for, like a one storied dwelling, which this is a one story house, so it would be 15' and in order to get this width to be wide enough to something in the future they have to encroach on the house a little bit so it'll end up being 13'4" instead of the 15 feet,

M. Andrews: Okay

Ch. Ross: So they're looking for relief for 1.6' for the existing house,

M. Andrews: Okay

Ch. Ross: Anything to do with the remainder with the 2 acres back here [pointing to plan] it's not in front of us this evening, that has to go to the planning board, looking for any type of subdivision relief and tonight is, not to cut you off

M. Andrews: No, its ok, I was just was unclear

Ch. Ross: All those questions are premature

M. Andrews: I was very unclear

Ch. Ross: Because nothing's been approved for that

M. Andrews: So tonight's that, Ok

G. Sagar: Mr. Chairman, I have a question

N. Abelson: When you signed your purchase and sales, what did he show you?

M. Andrews: Can I show you? I have, they didn't show me anything, but, I'll can, just read what it says, if you'd like

N. Abelson: Well, I mean

M. Andrews: I wasn't shown anything

Ch. Ross: What are you buying?

M. Andrews: What am I buying?

Ch. Ross: Yup, what's under contract?

M. Andrews: 135 Ledge, 135 Ledge

G. Sagar: Does it have a plat and lot on your purchase and sales

M. Andrews: This house right here, with the shed

G. Sagar: Does it have a plat and lot on your sales?

Ch. Ross: This hasn't been subdivided yet, I don't know

G. Sagar: The issue, I was going to raise the title issue, because, when did you sign the purchase and sales agreement?

M. Andrews: Friday night

G. Sagar: Then he has, he's in first position for title purposes, in Massachusetts

Ch. Ross: You've got an equitable interest in, I haven't seen the purchase and sales agreement, and I don't want to sit here and play lawyer,

M. Andrews: Right

Ch. Ross: Do you, is it, was it your intention, is it your intention that you're purchasing the 17,000 sq ft with the house on it?

M. Andrews: Yes, the 17,000 sq ft, with the house on it, yes

N. Abelson: That's what they told you,

Ch. Ross: That's what they told you

M. Andrews: Right, right, yeah, that's, all that's accurate

N. Abelson: Ok, so it wasn't misrepresented to you

M. Andrews: No, I don't want (inaudible)

Ch. Ross: Ok

M. Andrews: But my question, why I came up, was I just didn't see the exactly what he was presenting to you and I wanted to know fully what was going on, so

Ch. Ross: That's because this plan has not been approved yet,

M. Andrews: Gotcha, okay

Ch. Ross: By the planning board

N. Abelson: Right

M. Andrews: I just didn't want to buy it and the next day you guys are moving my shed

N. Abelson: They won't be able to transfer the title for the property until it goes to the planning board

Ch. Ross: Until this is approved by the planning board, if it's approved, you can't close.

M. Andrews: Okay, gotcha, can I have that paper back?

Ch. Ross: Absolutely, it's just the assessors

M. Andrews: Yeah, I just wanted you to see it, Thank you so much.

Ch. Ross: Yes Ma'am,

Audience Member: May I be next?

K. Rondeau: Can I ask a question?

Ch. Ross: Please

K. Rondeau: If this hasn't been Form A'd yet, and this hasn't been, and there's been no title registered, then how can we give a variance to something that's

R. Read: Doesn't exist?

K. Rondeau: Doesn't exist

G. Sagar: Interesting question

N. Abelson: Unless you gave him the relief, we couldn't do a Form A

G. Sagar: They need the relief first

Ch. Ross: They need the relief first

N. Abelson: They need the relief first

Ch. Ross: It's just a sequential thing,

G. Sagar: It'd be subject to planning board approval

Ch. Ross: Right

N. Abelson: Because if it came to me, I'd say we can't approve this, because it makes it a non conforming lot

G. Sagar: So, if it was approved by us, then I would think it would be subject to planning board approval

N. Abelson: Exactly

Ch. Ross: That's correct

G. Sagar: And an ANR

Ch. Ross: The planning board wouldn't look at it unless zoning relief was granted for the setback issue

K. Rondeau: Then who, whose going to be the person of record on the decision?

Ch. Ross: It's going to be the current owner because they can't convey until the planning board has approved this. They can't convey the 17,000 sq ft until the planning board approves the subdivision

G. Sagar: That lot 1, doesn't exist

Ch. Ross: Doesn't exist

K. Rondeau: That's what I mean.

Ch. Ross: Right

N. Abelson: It's a little different

K. Rondeau: Ok, let's go (inaudible)

Ch. Ross: Ok, Ma'am would you state your name and address for the record please?

M. Pezulli: My name is Michelle Pezulli; my address is 119 Ledge Rd. So I abut side to side, P-E-Z-Z-U-L-L-I, so I'm lot 585, map 19.

Ch. Ross: I see that, raise your right hand please, do you swear or affirm that the testimony you are about to give will be the whole truth?

M. Pezzulli: Yes, the concern that I'm presenting to the board today, is the fact that I'm already on a corner, so my property is on the corner of Ledge and Lancaster, so I have a road that, on one side of my property, the proposal here, as I'm understanding is, in essence going to create yet another road on the other side of my property, so I am going to be locked in side by side and I'm very concerned about property value at this point. We have an issue right now, where our primary bedrooms are on this side of the property, and now there's going to be a road way or easement or however this transfers such that I'm now not going to have any respite from the comings and goings of my neighbors, at least right now that side of my house is quieter than the Lancaster side, where we already have five or six houses on that side already. So my primary concern, obviously this not something I would like to see happen, I am concerned about our privacy, I'm concerned about our property value, I'm just concerned about noise, and all of the other issues that come with opening this lot up, and how it affects my family

Ch. Ross: Those are all legitimate concerns,

M. Pezzulli: Right

Ch. Ross: And I'm sure that we as a board are sensitive to them, those are concerns that are best directed to the planning board

M. Pezzulli: Ok

Ch. Ross: When this matters comes up for subdivision

M. Pezzulli: Sure

Ch. Ross: Because I'm sure you are aware, living next door, as we sit here this evening this is still one single parcel

M. Pezzulli: I understand

Ch. Ross: Even if we do grant relief for the setback on the existing home tonight, that's all we're doing. Planning board has, is next, and they are going to look at whatever proposals, and including this creation of this 17,000 sq ft lot, that the owner wants to do. And at that point, you will be notified of that hearing as well, and if you want to raise those concerns that would be the time and the place to do it.

M. Pezzulli: Ok, very good,

Ch. Ross: Ok?

M. Pezzulli: Thank you

Ch. Ross: Is there anyone else in the audience who wishes to speak to this matter? Asking a second time, anyone else? Do you have anything else further, Mr. Far? Mr. Far is that correct?

C. Farland: No, sir, its Mr. Farland, No sir.

Ch. Ross: Sorry about that, have nothing else? Questions by, Bob?

R. Read: Yeah, I was wondering what other properties your client owns at the end of that street. Are we just talking about one street going in where the cul-de-sac or something?

C. Farland: The proposal at this point, we are looking at alternatives. One alternative would be to talk to the neighbors, to see if it's a possibility, (inaudible), was just up here, Pezzulli, off of Lancaster is a possibility, but the first thing we have to do is to sell off this parcel, which we have to do an ANR plan, and before we can do that we need to get this variance request first, but there are other alternatives that were looking into. The difficult thing is we can't really access it in the rear and the



wetlands and the ledge back there. But certainly we are going to try talk to these neighbors and see if there is any interest in providing the roadway where we can actually loop around.

R. Read: I noticed that one of the parcels in the back is trustees of 135 Ledge, is that?

C. Farland: I know it's in an estate, I'm not sure if those are going to be part of this development or not, it's defiantly separate owners back here, one of them, my client hasn't been able to contact them yet, but certainly ,

Ch. Ross: But in this vicinity of what's here, your client only owns 589 correct?

C. Farland: These are the same owner, same ownership, this parcel here and this parcel here, different entities

Ch. Ross: But they are all your client who controls those parcels?

C. Farland: Yes

Ch. Ross: Ok, good. Just so we are clear, the three parcels that abut that, are owned in trust, those are the three that are controlled by your client?

C. Farland: Not all three, this one is, this one isn't and this is.

Ch. Ross: Not the middle one?

C. Farland: Not the middle one

Ch. Ross: Just to be clear and you said you had, John Aubin's memorandum from April of this year,

C. Farland: Correct

Ch. Ross: He stated in there, assuming there is planning board approval for the rear, your back in front of us again for frontage.

C. Farland: Yeah, if we didn't we have to get a variance

Ch. Ross: You've got insufficient frontage

C. Farland: We'd have to get a variance for one lot, that's why on this plan we have "not buildable lot"

Ch. Ross: Ok, anything further? Do I have a motion?

R. Read: I kind of have a problem with the 1 foot 8 inches.

C. Farland: It's not one foot, of the shed, is 12 feet 8 inches,

R. Read: That would be 2 feet 4 then

Ch. Ross: They're looking for 2 foot

R. Read: However you want to call it

Ch. Ross: Yeah, a little over 2 feet of relief

C. Farland: If the shed was certainly a problem, we could move that shed, the house no,

Ch. Ross: You can't move the house.

R. Read: That's why I said the 1 foot 8 inches,

G. Sagar: My issue is I don't see where the hardship is, the hardship is self created,

Ch. Ross: Yes

C. Farland: The hardship is the natural shape of this lot, it's a long narrow lot, the only way to develop this lot would be to put a road way in

G. Sagar: That in itself is not a hardship, you have in an R-1 zone, more than adequate piece of land, now to take and subdivide it, you are short, you're absolutely right, I don't think it raises, rises to the threshold of a hardship.

Ch. Ross: What you're saying is, as I understand you, and correct me if I'm wrong, he's got a 93,000 sq ft lot that he could build on

C. Farland: This lot could be 200 acres, so the only way, it's a financial hardship if you can't develop the rest of your land just because the shape of it, that's the shape the hardship.

G. Sagar: Not that it matters in this petition, I had a similar project in a neighboring town and I ended up cutting part of the house off.

N. Abelson: I remember that.

G. Sagar: But the intent of our bylaws, if this is going to be a corner lot, our by law calls for two front yards, so the intent of the by law is for more land area setback not less.

N. Abelson: Right, when he goes to planning to do a Form A on this, form A off this, we can't Form A this piece off of this because it won't be appropriate frontage because we have to have frontage and area. So we won't have frontage at that point in time unless he did the whole thing in one shot somehow, you'll have to have your relief

R. Read: How about the corner of Michelle's lot there? Where the street would begin?

K. Rondeau: It may be creating a hardship for that lot, creating a new corner

G. Sagar: Yeah, I sympathize with him but, I mean it's

K. Rondeau: But it may be creating, I'm sorry, not a hardship, it may be creating a non conforming lot, with that corner there.

R. Read: Correct

G. Sagar: But if he needs one variance just to get started, and then he'll come back and get a second variance, then the hardship is self created as far as I'm concerned.

Ch. Ross: It would be then, I mean in effect, you're right. Legally, if we grant this and the planning board, assuming there is no further subdivision here is just, this one lot, then we'd be almost compelled to grant the road frontage,

N. Abelson: For variance

C. Farland: You can certainly condition it, subject to no further variances on this parcel

Ch. Ross: Couldn't do that, you've got, the way you propose to do this now in front of the planning board, you've got insufficient frontage, and you're going to have 55'

C. Farland: Yeah, but it's not going to be, it's not going to be an ANR plan, it's going to be a definitive subdivision plan, showing a road,

N. Abelson: First, for the Form A to be done and recorded, we'd have to show proper frontage and area, those are the requirements, and for an ANR, we can't do that, so I mean, you'd have to bring the whole thing in, and do everything all at once probably

R. Read: Right

N. Abelson: I mean, rather than even going to Form A this right now. The way I see it, I don't know, much

Ch. Ross: I think that's right. That's a planning issue. The public hearing still open so

G. Sagar: If there is nobody else that wants to speak, from the audience

Ch. Ross: One more time, is there anyone in the audience that wishes to speak any further on this petition? Hearing none

G. Sagar: I move we close the public hearing

Ch. Ross: Do I have a second?

K. Rondeau: Second

Ch. Ross: All those in favor of closing the public hearing, signify by saying Aye,

N. Abelson: One more thing?

Ch. Ross: We have a question

N. Abelson: I just wondered if you could get a waiver on the width that he needs for this right of way.

G. Sagar: That would have been my suggestion, but that is not our role to suggest to a developer.

N. Abelson: Then he could have conformed to the setback, perhaps

G. Sagar: You're right

N. Abelson: Then possibly gotten

G. Sagar: As he's stated, he does have alternatives

N. Abelson: Yeah, okay

Ch. Ross: All that's in front of us is this plan

N. Abelson: No, I know

Ch. Ross: I know, you know that, not this plan, this proposal

G. Sagar: So did we vote on that?

Ch. Ross: Public hearing hasn't been so, yeah, vote on the motion to close the public hearing, all those in favor signify by saying Aye, opposed No. Ok, the public hearing is closed.

G. Sagar: I move we uphold the decision of the building inspector

N. Abelson: Second

Ch. Ross: Any discussion on that motion? All those in favor of upholding the determination of the zoning official, signify by saying Aye, opposed no. Ayes have it 5-0.

G. Sagar: And I would move that we deny the petition, because he has not, in my opinion, reached the burden of a hardship for a variance.

Ch. Ross: Do I have a second on that motion?

R. Read: I'll second that

Ch. Ross: Motion has been made and seconded, is there any discussion on the motion to deny the petition for a variance for the setback? Since hearing no discussion to be had, all those in favor of the motion to deny the petition as presented, signify by saying Aye, opposed No, Ayes have it 5-0. That's it Mr. Farland, we explained what the rights are, and you could always submit a different proposal, which in my opinion would be,

N. Abelson: Might be a better way to go.

Ch. Ross: Next matter 2016-08 Brian J. McLaughlin owner/petitioner, by Brainsky Levinson. Good Evening

M. Ferragamo: Good Evening, Mr. Chairman, and members of the board, for the record my name is Michael Ferragamo, I apologize for the length, but I am an attorney with Brainsky Levinson, LLC, with offices at 1547 Fall River Avenue, here in Seekonk. I am here tonight on behalf of the applicant Brian J. McLaughlin and D'Angelo Inc.

Ch. Ross: Are either of your clients here?

M. Ferragamo: Here today on behalf of the applicants is Steven McLaughlin, development coordinator he'll be able to speak to and address to the questions the zoning board may have

Ch. Ross: We're just going to try and quiet down the crowd

M. Ferragamo: Thanks, we appreciate it

Ch. Ross: Okay

M. Ferragamo: Thank you Mr. Chairman, and if there are any members of the board who do not have the application materials with them tonight, I have prepared a couple of extra copies, of the hand outs

Ch. Ross: I think we are probably set. Just so we're clear I have a photo of existing conditions on the sign, and the conceptual sign.

M. Ferragamo: Yes, that's correct, it's a site plan as well as conceptual and then we have a conceptual for the illumination of the sign as well.

Ch. Ross: Ok, that's what I have, I assume everyone has

M. Ferragamo: Mr. Chairman, members of the board; the applicant is requesting a 59.8 sq ft per side variance from section 8.8.4.6 requirements of your zoning bylaws for the property located at 120 Highland Avenue. This is the shopping plaza that currently has a Town Fair Tire as well as D'Angelo's sandwich shop in it. Next to Bob's and Gasbarro's Liquors. This is about 2.066 acre property located in the highway business zoning district. The applicant recently received site plan approval from the Seekonk Planning Board, for renovation of the site; this includes demolition of the existing pylon sign and replacing that with a newer more modern version. The proposed sign will have a display space area of approximately 179.8 sq ft per side, so in other words this is a total of 359.6 sq ft of display face area. Section 8.8.4.6 of the bylaws limits sign face square footage to 120 sq ft per display face side which would be 240 sq ft in this case for both sides. Therefore your applicant is requesting a variance from section 8.8.4.6 to 59.8 sq ft per display side, which would be a total of 119.6 sq ft for both sides. That being said, I would like to directly address one of the most pertinent factors that should be in the board's mind, when granting, and assuming whether to grant the variance, and that is what is the hardship? The hardship here, Mr. Chairman, and members is I think, very neatly displayed on this sign and that is we have a very competitive marketplace on the Highland Ave corridor, as you can see, we have a comparison of the between the existing sign here at 120 Highland Ave and as well as several of the other similar free standing pylon signs in the area. As you can see, there's been, even from an aesthetic stand point a gradual transition to more modern looking and larger signs overall. Essentially what we are seeking to do is have a sign that would be more competitive and provide a similar competitive advantage that these signs provide to their property owners. This would be beneficial to all of the any of the businesses that would occupy the space within the property. I would like to add to, the relief we are seeking, we would like to, obviously go as large as we possibly could but we are seeking the minimum sign display area that we could obtain under the zoning ordinance and still be able to allow the commercial tenants to comport with their, for instance their franchise agreements and any of those corporate requirements. That being said, while the, by granting this relief the board would be allowing the businesses in the property to remain competitive while not substantially derogating to the public really or the zoning itself.

Ch. Ross: Are you saying that the hardship to your client is based on competitive disadvantages as you perceive them would be financial in nature?

M. Ferragamo: Yes, absolutely, and especially with not in just terms of being business to business but purely in being able to catch the eye of travelers in and now knowing FedEx is going to be coming in shortly in the area, there going to be a lot of focus

in a lot of different areas and quite frankly the sign that exists as it stands right now simply gets lost in our more

N. Abelson: I noticed on the bottom of the sign you show an empty space where there isn't a tenant yet for that space. Does the owner for see them having a different space where that area would be needed, or is it more of just something way out there in the future?

Ch. Ross: Just state your name and association for the record please.

S. McLaughlin: Steve McLaughlin I am the development coordinator for D'Angelo, I work for D'Angelo, I might even be related to the owner

Ch. Ross: Would you raise your right hand please? Do you swear or affirm that the testimony you are about to give will be the whole truth?

S. McLaughlin: Yes,

S. McLaughlin: We don't have a tenant yet for that bottom space,

N. Abelson: Do you for see having another tenant there?

S. McLaughlin: Yes,

N. Abelson: Oh, you do?

S. McLaughlin: Yes because Buffalo Wild Wings is already been set and their footprint has already been put in place and we would add three properties, three different tenants we are putting together to make one single large tenant for Buffalo Wild Wings. And they didn't have to take all of it, so we do have some

N. Abelson: You have an empty space

S. McLaughlin: We have an empty space there; we will eventually have a tenant there

N. Abelson: I just wondered because if you could eliminate that temporarily basis, and then somewhere down the line, if you had to add a tenant you could always come back and I think the board would be more, you know flexible

Ch. Ross: You have five commercial units there, right now?

S. McLaughlin: Yes

N. Abelson: That was my question

R. Read: If my math is correct every one of those signs is bigger than the one you're suggesting

S. McLaughlin: So, these are all equally, all these signs, regardless of the size of the tenant, are actually all the same, all these are the same?

R. Read: I actually meant the others

Ch. Ross: That's not what Bob was

R. Read: I meant the other signs that are up

Ch. Ross: For (inaudible) purposes, those six

M. Ferragamo: But I believe the question was, that the signs are either small

R. Read: It wasn't really a question it was a

N. Abelson: Statement

R. Read: I was doing the math, as they say

M. Ferragamo: Well, if we were to look at total square footage, and I thought to myself, when we were actually comparing the size of, if I may, rotate, starting with the Golfsmith sign, and go clockwise, if we are looking at total square foot for per sign face, some are closer to the bylaws, as I was doing my math, as been provided by the sign production company, Golfsmith sign as a total approximate square foot face area of 130 sq ft. the Stop and Shop sign / Home Depot sign as a 127.5 sq ft. The

King Phillip Crossing is 123.5, now when we get to the Seekonk Square sign we are now at 153 sq ft. Namco plaza where there's the Outback Steakhouse and the Gym we are at 225.8 sq ft. then we head back down to Seekonk Crossing which is 140 sq ft. I think what this goes to demonstrate is that there has been, the zoning board has been very good at trying to constrain, or some kind of limit on the growth of the signs, but there are larger signs out there, and that what we now have is an environment that needs to be able to compete with that and again, what we are seeking is the least relief that we would be needing to be able to make sure that future tenants that move into the buildings would be able to comport any of their franchise requirements, and again I just wanted to emphasize that were not just talking about financial hardship here too, but it really is that competitive hardship that we just likely will not be able to address as easily, without having the relief granted

N. Abelson: (inaudible) A face lift to whole, which is going to probably happen through the site plan we saw, that it's like this is a nice looking sign, I mean, as far as looks I mean the other sign looks so dated

G. Sagar: Do we know how big the existing sign is? Do we have that, in square footage?

M. Ferragamo: By square footage that's currently 151 and a quarter

R. Read: 14 by 11

G. Sagar: 302

E. Brainsky: Mr. Chairman, counsel is doing a fine job, presenting to the board, but to answer your question Mr. Read, one of the issues that's really driving this is, I think we said, franchise is really corporate requirements, and or requests from people like Buffalo Wild Wings and they have their, this is the way we want to see it, they do make exceptions from time to time, but it impacts, you wouldn't believe how hard it is to get from here to here from corporate for them to move this much. Much harder than your board has been over the years on applications, it's getting driven a lot by corporate,

Ch. Ross: Now when you talk about franchise agreements, and you mentioned Buffalo Wild Wings, are they talking about aesthetics, size, illumination, all of those things, or

E. Brainsky: They are more flexible on illumination, in my experience, because, you know, they can get these electronic signs where they have the flashing lights, they really like to see those

Ch. Ross: Not here

E. Brainsky: From time to time. We all know Seekonk has historically very opposed to it, but what I can say is in terms of type of sign that you see, what's proposed for the new sign the logo is the logo, they have two or three different types and in terms of the size of the visibility from the road, they make their requests, their requests are not really requests

Ch. Ross: It's like being in the military,

E. Brainsky: Like a request to run a couple of miles, when the drill instructor tells you to, so it, overall it's an improvement, the planning board, and Mr. Abelson can speak to that, I think very receptive to the application and overall, from what we have there today, to this, it's not going to be internally lit anymore than any other sign on that road, plus we comply with the bylaw in that respect. Talking 60 sq ft per side.

G. Sagar: And that space underneath is reserved for the last tenant space that they have

Ch. Ross: That's correct

E. Brainsky: It'll be easier with a nice sign

N. Abelson: If you look at it, is the calculation including the sign on top that says "Seekonk Plaza"? I just wondered, it's more of a directional

R. Read: it counts

N. Abelson: Yeah, I know

Ch. Ross: Since you only have one space left, I just wanted to confirm looking at your existing sign, Pella Windows, Massage and Cruise Holidays, are no longer tenants?

S. McLaughlin: All gone, they're all gone

Ch. Ross: They're all gone

N. Abelson: Pella Windows has been gone a long time

Ch. Ross: Yeah, I just wanted to get it on the record

G. Sagar: The interesting thing Mr. Chairman, I asked our secretary today to search the records, and see if she can find a permit when that sign was installed, and it doesn't exist, so...

K. Rondeau: Mr. Chairman, just looking for matters of comparison, just looking at the information given here, it appears the proposed sign is approximately 159 sq ft, both, I'm talking both sides, larger than the smaller sign shown, it's smaller by 93 sq ft, the largest sign shown and really it really falls into that around 100 sq ft. larger, about 50 sq ft per than most of the others, 20 sq ft on one of them, one side 40 in total so it's not really

R. Read: That Home Depot sign is bigger than

K. Rondeau: It's not the biggest and it's not the smallest, but it's kind of like a little bit above the mean

N. Abelson: I'd almost look like if the Seekonk Plaza thing, I know it's out there, but it's more a directional sign, I mean, cause where Town Fair is located in the Seekonk Plaza, it's not really advertising for a store, I mean, I kind of feel that way about that a little bit

M. Ferragamo: And it was our intent to conform as much as possible with the Zoning Bylaws as much as possible we are making this application as most conservative as possible.

G. Sagar: I would just like on the record, Mr. Chairman, to correct the letter of the building inspector, he, in the second paragraph, he says no free standing sign shall have a single face area of display a sign in excess of sixty and then in parenthesis they put 120, and 120 is the corrected one the 60 would be if it were local business, or in highway business it's double.

Ch. Ross: It's 120 per side, on a double faced sign, so he's got the number right he's got the word wrong

K. Rondeau: If I may, Mr. Chairman, it's to be built just the way it is depicted? With pillars on the side

S. McLaughlin: The pillars are designed to basically to be similar to the pillars we are planning for the actual façade on the actual building structure itself

N. Abelson: It's an architectural thing

K. Rondeau: I just wanted to make sure that at the end of the day it's not going to be two pieces of iron or two poles, telephone poles

G. Sagar: Well, you know this is in the heart of our business district

Ch. Ross: It sure is.

G. Sagar: We love to have these businesses come in and then the hardest thing we put them through is a couple extra square feet on a sign, so it think you have made a very compelling argument, sir.

M. Ferragamo: Thank you

R. Read: And I don't think you needed Mr. Brainsky to interrupt either,

Ch. Ross: You don't have any further witnesses, correct?

M. Ferragamo: No

Ch. Ross: Let me, there's no one here, for the record, is there anyone in the audience who wishes to speak in favor of the petition? Hearing none, is there anyone who wishes to speak in opposition to the petition, hearing none, do I have a motion to close the public hearing?

G. Sagar: So moved,

Ch. Ross: All those in favor of closing the public hearing, signify by saying aye, opposed no, ayes have it 5-0. Do I have a motion on the building inspector's letter of determination?

G. Sagar: Move we uphold it with the one typo corrected

Ch. Ross: As amended? All those in favor of upholding the zoning official's determination signify by saying aye, opposed no, ayes have it. Do I have a motion on the petition?

G. Sagar: Move we approve as submitted,

Ch. Ross: Do I have a second?

R. Read: Second

N. Abelson: Any stipulations on that?

Ch. Ross: Only for the lighting I would think,

G. Sagar: The variance is for the size only; every other requirement of the bylaw would have to be

Ch. Ross: The bylaws they comply, any discussion on the motion?

N. Abelson: The halo channel works, I just wanted to check

Ch. Ross: Hearing no discussion, all those in favor of granting the petition, signify by saying aye, opposed no, ayes have it, Mr. Brainsky, Mr. McLaughlin, Mr. Ferragamo, Thank you, Good Luck.

**: discussion among the board members::**

Ch. Ross: My recollection is that this has been cleaned up, based on the last meeting and this is just a take a look at it, take any comments from the public and bless it or not, does anyone have any comments, observations, revisions?

B. Garrity: Does it matter that the abutter's labels are only good for 30 days, but our appeal take, or our entire process takes longer than that? Because it's only by what the abutters were at the day of the application? Say there is a sales transactions that take place, I'm obviously not going to have that, and it's not up to the...

Ch. Ross: That's fine, because we gave good notice, we convened a public hearing, within the time frame, and then we continued it in public,

B. Garrity: That's what I figured, because the time frame being from the date of the application, or the date of the decision and everything like that,

Ch. Ross: To the date of the first hearing

B. Garrity: Overall



Ch. Ross: That's correct

B. Garrity: Can we add an email address to the application?

G. Sagar: It only makes sense

B. Garrity: It's just another way for me to track who I've spoken with and what our communications have been it's

G. Sagar: Do you want to insert that in?

B. Garrity: I figured it's on the bottom of the application anyway, underneath telephone I can stick in another line

Ch. Ross: I don't have a problem with that; just don't reject an application because someone doesn't have

B. Garrity: Absolutely not, and some people just may not have it, and it's not required and if they it and its convenient.

Ch. Ross: Looking at the changes that were made last time, and there weren't that many there all within the margin

K. Rondeau: Gary, you have any questions on page 10 regarding the reapplication?

G. Sagar: I was going to mirror state law. I think he changed that

Ch. Ross: This is my comment from last time,

R. Read: What page

B. Garrity: Did I not delete it?

Ch. Ross: Page 10, at the very, very bottom, it says extension shall be granted under section 21 of 40A and my comment is there is no section 21 of 40A, didn't we?

N. Abelson: I think we did

Ch. Ross: Maybe I have an old one then?

R. Read: What page is that?

Ch. Ross: Page 10

G. Sagar: It is in parentheses there is no 21 of

Ch. Ross: That is my comment originally

R. Read: Where do you see 21

B. Garrity: Ok, it just needs to be removed,

Ch. Ross: So some other section, I don't know off the top of my head which section of chapter 40A it is but it's not 21

G. Sagar: In reapplication there, you're just going to put 40A section 7 that's under reapplication, but on the extension did we find it in the general law?

K. Rondeau: The corrected one says section 17 of chapter 40A,

Ch. Ross: I've got an old one and I've got section

K. Rondeau: This is the new one right?

Ch. Ross: Section 21, I grabbed

R. Read: And I have 17 too, must be an old copy

Ch. Ross: I grabbed it out of Bridget's file

K. Rondeau: The original said 21,

Ch. Ross: Right

K. Rondeau: Section 21 but there is no 21, it looks like it was amended to section 17

R. Read: Yeah, that's what I have

G. Sagar: Or just put in accordance with chapter 40A,

Ch. Ross: I still have the same one, it's in red

G. Sagar: Forget the sections

Ch. Ross: Chapter 40A, and forget the section,  
B. Garrity: That's on page 10, it's correct I just didn't print it.  
N. Abelson: What does it say now, on yours? Does it say section 17?  
G. Sagar: See, I've got it on here, the new one  
B. Garrity: Section 17 of 40a,  
G. Sagar: Reapplication pursuant to section 16 of 40a  
K. Rondeau: Parties in interest at the top of the page, that's going to be done, that's good, and then  
G. Sagar: That's was where when people would be notified if there was an appeal?  
B. Garrity: Do you like me print out for you?  
Ch. Ross: No, no don't bother, that's fine  
K. Rondeau: I think that's  
Ch. Ross: Something's not right  
G. Sagar: Roger, I think I've got, take mine, it's got the cover page, from you back in March, I think I've got everything there

**:: discussion among the board members::**

Ch. Ross: This application has an email address; did you put it on there?  
B. Garrity: Yes  
Ch. Ross: You just took it upon yourself to put it there.  
N. Abelson: You did it before you asked  
Ch. Ross: Better to ask forgiveness than permission  
B. Garrity: You know what it was? We also  
K. Rondeau: What were you going to add, I'm sorry  
B. Garrity: We haven't formally adopted these, and that application yet, so I'm still using the old ones and that's why I'm so used to using the old ones that do not have it,  
K. Rondeau: You have an email address there already  
B. Garrity: Yes, but I'm not used to using that one 'cause I haven't used it yet, but the old form doesn't have it and that's why I was asking.  
K. Rondeau: So, it's already there  
Ch. Ross: So do we move to approve and adopt?  
G. Sagar: We are under a public hearing,  
Ch. Ross: Do I have a motion to close the public hearing?  
G. Sagar: So moved  
N. Abelson: Second  
Ch. Ross: Yeah, all those in favor, aye, opposed no, ayes have it 5-0 do I have a motion on the rules and regulations of the Zoning Board of Appeals as revised and submitted, this day,  
G. Sagar: I do Mr. Chairman, and I would like to say that we adopt them effective July 1<sup>st</sup>, that will be the new fiscal year.  
Ch. Ross: Second?  
N. Abelson: Second  
Ch. Ross: All those in favor of adopting as per the motion, Aye, opposed no, ayes have it 5-0, so you're stuck with the old application without and email for another 2 months.  
K. Rondeau: Just for the record, I'd like site the great work by the town planner and by Bridget for putting this all together, and

Ch. Ross: John put a lot of work into this  
K. Rondeau: And lot of the revisions and corrections and etcetera, they just did an outstanding job,  
G. Sagar: Is that the only document that we have to approve,  
Ch. Ross: The what, please?  
G. Sagar: The only thing we've got to approve, on the documents that we've done all along?  
Ch. Ross: Yes,  
G. Sagar: Along those lines, Keith, I'd like to make a motion that the Chairman send a letter to the Town Administrator and the Board of Selectmen thanking Mr. Aubin for his hard work on our behalf, on his own initiative, and he's done a wonderful job and to thank him personally would be  
Ch. Ross: I will do write it?  
G. Sagar: Bridget's been with us, she's in her fifth month now right, Bridget?  
B. Garrity: I started January 4<sup>th</sup>,  
G. Sagar: Ok, I'd just like to acknowledge I think she's doing an excellent job and the only thing I'd like to ask, today I called her or emailed her relative to tonight and it's not fair to her that the day of it that I'm asking all these questions for information, so what I'd like you to do as an internal office policy, you get a petition like the petition for the sign if you would do a record search, and have that information available so that way we know if there's been other approved variances or anything  
Ch. Ross: If there is an existing, or non conforming on file  
G. Sagar: That would make life easier for everyone  
Ch. Ross: Right, ok, and just to let you know, Bridget and I email back and forth quite a bit, not necessarily about pending petitions, and I let her know often, that she's doing a real good job  
G. Sagar: Yes, absolutely  
B. Garrity: Thank you,  
Ch. Ross: You were contacted for the June meeting, Neal?  
N. Abelson: The 4<sup>th</sup> is it? The 5<sup>th</sup>  
Ch. Ross: The 6<sup>th</sup>  
B. Garrity: The 6<sup>th</sup>, thank you,  
N. Abelson: I would have gotten there eventually,  
K. Rondeau: We're good on all these revisions, etcetera and these can be tossed  
B. Garrity: I will email out a copy once I change everything  
G. Sagar: If we are done Mr. Chairman, I would move that we adjourn  
Ch. Ross: Second?  
N. Abelson: Second  
Ch. Ross: All those in favor of adjourning aye, opposed no, ayes have it. We are through.