

**SEEKONK ZONING BOARD  
REGULAR MEETING  
MINUTES**

**July 25, 2016**

Present: Ch. Roger Ross, Robert Read, Keith Rondeau, Gary Sagar, Neal Abelson  
Megan Bayer, KP Law, Bridget Garrity Clerk

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

Ch. Ross: Good Evening, it is 7 o'clock, July 25, 2016 it is 7pm, the Town of Seekonk Zoning Board of Appeals, is convened. Before we get to the agenda, and the items that are up this evening, I'll ask the people who are here, please stand and join the board in Pledge of Allegiance?  
:: All saying pledge of allegiance::

G. Sagar: Mr. Chairman,

Ch. Ross: Yes, Mr. Sagar:

G. Sagar: May I move that we change the agenda to have the public hearings first and the executive session last?

N. Abelson: Second

Ch. Ross: So we have a motion and a second to alter the amended agenda as posted, so that the public hearings are heard first and the executive session, at that point we may entertain a motion to go into executive session. Any discussion on the motion? All those in favor signify by saying aye, opposed no. Ayes have it. 5-0  
Ok I will begin this evening as we, as is our practice I will read the agenda ask if the petitioners are here. At that point we will start the public hearings; I'll have some more comments, after I read the agenda, but the amended agenda as posted.  
First matter is an executive session titled: **LITIGATION UPDATE:**

Litigation known as Ronald J. DiPietro, et al. v. Keith W. Rondeau, et al., Bristol Superior Court C.A. No. 2013-00966, which is an appeal of the September 19, 2013 final action of the Zoning Board of Appeals to grant the appeal of Mr. Keith Rondeau from the failure of the Zoning Enforcement Officer to respond to Mr. Rondeau's enforcement request to limit the commercial activities at 400 Taunton Avenue.

1. Open Session, with possible declaration by Chairman and vote by the Board to go into executive session to discuss litigation strategy.
2. Executive Session to discuss litigation strategy regarding the pending litigation and possible votes.

Thank you, you may all be seated. We have four public hearings down for tonight, I will begin by reading the agenda, and we will call the cases in the order in which they are read. As the cases are presented, I will ask the petitioner or the owner, their counsel if appropriate, or any witnesses to come forward one at a time, and present their case, we will hear from anyone that a petitioner wishes to present. Afterwards, I will ask if any other people, other than witnesses who

wishes to speak in favor or opposition to a given petition we will hear all of the evidence, it is our practice, although we are not required to do so, after we close the public hearing, we consult among ourselves, we may ask additional questions of anyone who has testified, and we will more than likely take a vote tonight. Once a vote is taken, anyone who feels they are aggrieved by the decision, whether they are the petitioner or the objectors, have a right under Mass General Law to file an appeal with the appropriate court of jurisdiction, and the commonwealth of Massachusetts, if anyone chooses to file such an appeal, I would note that there are fairly strict constraints as to time and as to standing, so if you chose to do so, I urge you to consult with the by-laws, the Mass General laws, or consult with counsel. Having said that,

**Executive Session:**

**LITIGATION UPDATE:**

Litigation known as Ronald J. DiPietro, et al. v. Keith W. Rondeau, et al., Bristol Superior Court C.A. No. 2013-00966, which is an appeal of the September 19, 2013 final action of the Zoning Board of Appeals to grant the appeal of Mr. Keith Rondeau from the failure of the Zoning Enforcement Officer to respond to Mr. Rondeau's enforcement request to limit the commercial activities at 400 Taunton Avenue.

1. Open Session, with possible declaration by Chairman and vote by the Board to go into executive session to discuss litigation strategy.
2. Executive Session to discuss litigation strategy regarding the pending litigation and possible votes.

Public Hearings on the agenda for this evening are case number: **2016-14 Gary A. Kloss** 45 Lake Street, Seekonk, MA, 02771, Owner, Shannon K. Ashton, 166 Tremont Street, Rehoboth, MA 02769 Petitioner, requesting a Special Permit under Zoning Bylaws Section 4.2.2 Institutional or Utility Uses to operate a dance studio, at 945 Taunton Ave., Plat 17, Lot 123 in a R-2 / Mixed Use Zone containing 30,000 sq. ft of land? Is there someone here for this petition? And you are Ms. Ashton, I take it?, next **2016-15 Transit Properties, LLC** Box 83, Barrington RI 02806, Owner BAJ Investments, 153 George Street, Barrington, RI 02806 Petitioner, requesting a Special Permit under Zoning Bylaws Section 6.3 Mixed Use to operate an HVAC business office and storage warehouse, located at 1590 Fall River Avenue, Plat 4, Lot 94 in a R-3 / Mixed Use Zone containing 41,527 sq. ft. someone here on that matter? Thank you, those are the public hearings, after that we'll have a regular session which is simply a vote on the approval of the minutes of the June 20, 2016 meeting. Before I call the Kloss matter up, I just want to tell you that our practice here, is as the matters are called I will swear in all the witnesses on a given matter ask the petitioner and any witnesses that he or she has to present their case, I will poll the audience to see if anyone wishes to speak in favor of the petition and thereafter anyone who wishes to speak in opposition to the petition. At some point members of the board may have questions, which I will ask be answered as fully and as honestly as possible. It is our practice, although it is not required that we will take a vote this evening, on the petitions that are pending. In the event that a party is aggrieved by our decision, as that term is defined in

Massachusetts general laws, the aggrieved party has certain rights of appeal to the courts of the commonwealth. I simply caution you, that there are very stringent time restrictions as to filing a notice of appeal. So if you chose to do so, I suggest you read the statutes, the bylaws or consult with legal counsel. Having said that, the first matter this evening is case 2016-14, Gary A. Kloss and Shannon K. Ashton, so Ms. Ashton, if you would come forward please.

Ch. Ross: Good Evening

S. Ashton: Good Evening,

Ch. Ross: Would you state your name for the record please?

S. Ashton: Shannon Ashton,

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

S. Ashton: Yes

Ch. Ross: You may proceed, as deem fit.

S. Ashton: I'm Shannon Ashton, I own Seekonk Dance center in Seekonk, MA we have been in business for 6 years. We've had the opportunity to buy our own building, which we, which is the 945 Taunton Ave, and we are looking to obtain a special use permit to run our dance studio at that location.

Ch. Ross: Has the transaction closed yet?

S. Ashton: We have not closed; we are waiting for, to make sure that we can get a special use permit first.

Ch. Ross: Okay. Fine and you are buying the property from Mr. Kloss?

S. Ashton: Correct

Ch. Ross: Could you tell us something about the dance studio and what your background and experience is?

S. Ashton: Sure, I am actually, my mother owned Riverside Dance Center for years in East Providence and she owned the business for 32 years and she retired about 6 years ago, which then I took over and moved the business to Seekonk, looking for a bigger space. We do a lot of acrobatics and performing arts dancing, tap, ballet, jazz, we have been running in Seekonk for, like I said 6 years, and have a great amount of students, we love being in the town of Seekonk, right now we are located at 75 County Street. I don't know what else; I do have a background in early childhood, as well as my dance background, and my license to teach dance as well. I'm also 1<sup>st</sup> aid and CPR certified, we hold about 4-5 classes a day, least in the class is about 3, max in the class is about 8 students.

Ch. Ross: I'm a little confused, and maybe I misunderstood you, you said that 945 Taunton Avenue is under contract, to purchase?

S. Ashton: Correct, Yes

Ch. Ross: and you, I heard you say you're looking at 75 County

S. Ashton: No, we're located there right now

Ch. Ross: Oh, you're located, that was my fault. And your hours, your anticipated hours?

S. Ashton: We have 2 days a week we are open in the morning for a couple of hours, right now on Tuesday and Thursday, from like 9-11, and a majority of the operating hours are usually Monday through Friday from 4 o'clock to about 9 o'clock the

latest. And then during Saturday right now, we are open from 9 o'clock to about 3 in the afternoon.

Ch. Ross: Until 3

S. Ashton: yup

Ch. Ross: Thank you

S. Ashton: Sure,

Ch. Ross: I may have other questions but if any members of the board have any questions at this point?

N. Abelson: Do you plan on having any dance recitals, there, like shows?

S. Ashton: No, we do that at the East Providence High School.

N. Abelson: Ok, I just wondered, because that could accumulate a lot of traffic.

Ch. Ross: I'm looking at the site plan that you submitted, done by landmark site design, have you made provisions on this property for off street parking?

S. Ashton: There is off street, there is a big parking lot out front, that I believe holds 20 cars

Ch. Ross: That's not depicted here, but there are 20 parking spots on the lot.

D. Drowne: Approximately 20 spots

Ch. Ross: Thank you

G. Sagar: They would probably need to go to planning, right?

Ch. Ross: Yes, they do, they do, no question

N. Abelson: Oh they do, it's a change in use

G. Sagar: Yeah.

Ch. Ross: Do you have anything else?

S. Ashton: Nope, that's it

Ch. Ross: Do you have any other witnesses?

S. Ashton: I just have the realtor that is selling the property, here.

Ch. Ross: Do you want to speak sir?

D. Drowne: I think she's covered everything other than to point that the business was operating.

Ch. Ross: Ok, before you start testify,

D. Drowne: David Drowne with Century 21, David Smith Real Estate in Rehoboth.

Ch. Ross: Ok, would you raise your right hand Mr. Brown

D. Drowne: D-r-o-w-n-e,

Ch. Ross: Ok, I'm sorry, thank you

D. Drowne: No problem

Ch. Ross: Do you swear or affirm that the testimony you are about to give will be the truth?

D. Drowne: I do,

Ch. Ross: Ok and you were saying?

D. Drowne: The current owner operated his business there for approximately 30 years, they were manufacturers of (inaudible) gold jewelry. They closed the business, the primary owner passed away and the son decided to retire so the building has been up for sale for a period of time, and right now, the new septic system is just about complete, it will be completed this week hopefully, and they'll be ready to close some time around early next month.

Ch. Ross: Ok planning will deal with that issue and the board of health, and property is vacant now?

D. Drowne: It is currently vacant, yes.

Ch. Ross: Ok, thank you. Anyone have any questions of this witness? Ok, thank you very much. Is there anyone in the audience who wishes to speak in favor of this petition, who hasn't yet spoken? Hearing none, is there anyone in the audience who wishes to speak in opposition to the petition? Hearing or seeing none. I will ask the board one more time, are there any questions of either of the witnesses? Hearing none, I will entertain a motion on the public hearing.

G. Sagar: So moved, we close it

Ch. Ross: Do I have a second?

N. Abelson: Second

Ch. Ross: any discussion on the motion to close the public hearing? Hearing none, by voice vote, all those in favor signify by saying aye, opposed no, ayes have it 5-0. Do I have a motion on the substance of the petition?

G. Sagar: I would also move, Mr. Chairman to uphold the decision of the inspector of buildings, building commissioner.

N. Abelson: Second

Ch. Ross: Any discussion on the motion to uphold the determination of the building official? Hearing none, by voice vote, all those in favor of upholding the zoning officials decision, signify by saying aye, opposed no, ayes have it 5-0. And on the petition itself?

G. Sagar: I would move to grant a special use permit under section 4.2.2 to operate a dance studio on the premises as presented.

N. Abelson: With the condition they get approval from the planning board.

G. Sagar: Well, they have to anyway

N. Abelson: I know, but it should be a condition I think

G. Sagar: No, it's not it shouldn't be because it's included in the zoning regs anyways and it's included on our decision that they have to go

Ch. Ross: That they need site plan, review and approval by the planning board, correct. Is there a second on that motion?

N. Abelson: I'll second that.

Ch. Ross: Second my Mr. Abelson, any discussion on the motion, hearing none. By voice vote, all those in favor of granting of the petition for the special permit under section 4.2.2 of the zoning by laws, signify by saying aye, those opposed no, ayes have it 5-0. Good Luck Miss Shannon.

S. Ashton: Thank you very much.

Ch. Ross: next matter up is case # 2016-1Transit Properties LLC, owner, BAJ investments, petitioner.

N. Abelson: Before we start, Mr. Chairman, I have to recuse myself, because I am a direct abutter to this property.

Ch. Ross: Okay, thank you, and on that recusal, I have it sir, that you have been contacted by the secretary of the zoning board of appeals, and you wish to go forward with 4 members, and you do understand that under Mass General Laws 4 votes is required to approve a petition, so you'll need a unanimous vote this evening.

J. Lawrence: I understand

Ch. Ross: You understand, okay, having said that, would you raise your right hand and would you state your name?

J. Lawrence: My name is Jason Lawrence

Ch. Ross: Do you swear or affirm that the testimony you are about to give will be the truth?

J. Lawrence: Yes, I do

Ch. Ross: Okay, go ahead Mr. Lawrence, you may present

J. Lawrence: My name is Jason Lawrence I'm with Lawrence Air Systems I've got my two brothers with me, Aaron and Brian over there (pointing to audience). We'd like to change the use of that building from a dentist office to a HVAC office and we'll have a warehouse in the back. Lawrence Air Systems has been in business since 1973, we've been in Barrington, my parents started it, we got into 27 years ago, right out of high school and right into trade school and about 10 years ago, my mother died so we bought the business off of them and we've been running it ever since. It's just a good opportunity for us to move into a place, be part of a community. Right now we've got an office in Barrington, that's running out of the house that my parents started it in. And then we've got a warehouse space that's in Seekonk too, back in the trucking terminal area. We just want to get out, have a sign out there, we don't have walk in customers, we get maybe 1 a month, maybe with a sign out there maybe we'll get people lining up to pay their bills, but I don't think it works like that. It'd be great, but we get one truck a day in busy season, deliveries depending what company is dropping stuff off. Usually it's not trailer trucks it's usually box trucks. Our trucks are all vans, we've got one 16' box truck, we've got 10 trucks in all, 7 of our guys take trucks home, so at night, off hours after 4 o'clock in the afternoon you may see 3-4 trucks in on the property at some point. But we keep up our stuff, if you see our trucks; they look good, well maintained. We'd like to maintain that property to I think it'll be a good fit there cause it's really a mess, and we've got good plans to dress it up a little bit, I think we'll be a good fit in that neighborhood. Office hours are from 8-4, we've got 2 people that work in the office all day long from 8-4 and then the 3 of us we're in and out in the during the course of the day. And there may be a van or two that come in to just pick up parts and then go back out. Like I said everybody is mobile dispatched, so they're at their homes they get in their vans and go to work in the morning.

Ch. Ross: And the three trucks that will be typically stored over night, will that be indoors, or on the lot

J. Lawrence: It'll be on the lot.

Ch. Ross: Ok and you've submitted a 2007 plan

J. Lawrence: Yeah, It hasn't changed that much

Ch. Ross: It looks like it was done for the dental office

J. Lawrence: Yes,

Ch. Ross: Ok, and everything else,

J. Lawrence: everything's the same

Ch. Ross: Substantially the same

J. Lawrence: Yes

Ch. Ross: Including the encroachment on all those shrubs. I don't know if you've looked, there are shrubs that are over the property line on the westerly side, that's not our issue, I just thought I'd point it out to you. Assuming this was a (inaudible) and it probably was.

G. Sagar: This would be another candidate to go to the planning board too,

Ch. Ross: Yeah

G. Sagar: Just to get the parking revised, you know, cause of change of use.

Ch. Ross: That's right. Ok and you have 14 parking spaces,

J. Lawrence: I think there is 15, maybe,

Ch. Ross: 15 on this one

J. Lawrence: From what I saw

Ch. Ross: 15 yeah, your correct, 15 parking spaces. You have 2 employees, who are there full time, and for all intents and purposes, no walk in customers,

J. Lawrence: No, No walk ins

G. Sagar: It's safe to say that a majority, if not all of your commerce is done off site.

J. Lawrence: It is.

Ch. Ross: Commercial and residential HVAC?

J. Lawrence: Yeah, it's probably 90-95% residential and maybe 5% light commercial.

G. Sagar: That building, I believe has been vacant, and Mr. Abelson would know for quite a few years.

Ch. Ross: Quite a while

G. Sagar: The building has been vacant for quite a few years.

N. Abelson: Someone had a golf instruction corp., thing, going on for a while in one of the rooms; there hasn't been much activity there for quite a while

Ch. Ross: This is the building that is just down the street from the mixed use matter we had a couple of months ago, I believe.

G. Sagar: Right, yup

Ch. Ross: On Fall River Avenue.

N. Abelson: Just the other side of my property, I'm in between.

Ch. Ross: Ok

R. Read: Those bushes that you're concerned about who know who they're encroaching on

Ch. Ross: Then it's not an issue, I'm kidding. Do you have anything else Mr. Lawrence?

J. Lawrence: Can I answer any questions?

Ch. Ross: Do you have any other witnesses who wish to testify? Your brother are sitting in the audience, I take it?

J. Lawrence: Yeah, I drew the short straw, there.

Ch. Ross: Ok, moral support?

J. Lawrence: Yeah,

Ch. Ross: Ok, great, do any members of the board have any questions of Mr. Lawrence?

K. Rondeau: Your proposed office to warehouse space, what's the ratio?

J. Lawrence: It's going to be a challenge going in there right now because it's a dentist office and it's cut up into all these little pieces, I would say probably half and half, but it's going to take a while to do anything on the inside, we just kind of make do with what's there. There is a big warehouse in the back; I don't know if that's what you meant.

K. Rondeau: Is there a loading in that facility?

J. Lawrence: No

K. Rondeau: Do you plan on putting one in at some point?

J. Lawrence: No

Ch. Ross: So whatever materials are delivered by your vendors, it can be hand carried in?

J. Lawrence: They've got life gates, we've got a fork lift too that will fit in the garage.

Ch. Ross: Great, anyone else? Bob, Gary? No? If you don't mind taking a seat, there is no one here, but I want to protect the record, is there anyone in the audience who wishes to speak in favor of this petition?

N. Abelson: I have a question,

Ch. Ross: Your name please?

N. Abelson: Neal Abelson, 1588 Fall River Avenue, I just wanted to make sure that all the storage and materials was going to be maintained inside the building, there would be no materials stored outside? I think it is a good use for the property.

Ch. Ross: I will ask the question, Mr. Lawrence? Your material storage, as is delivered that will be stored inside the building?

J. Lawrence: Yes

Ch. Ross: either, the warehouse or the office

J. Lawrence: Yes. Anything that we pull out too, I think that's probably more of the problem, would we pull out of houses, old furnaces, and stuff, we'll definitely keep everything concealed away

Ch. Ross: Or disposed of

J. Lawrence: disposed of, yeah.

Ch. Ross: Thank you. Anyone else who wishes to speak in favor of this petition? Hearing none, is there anyone in the audience who wishes to speak in opposition, to the petition? I will ask one more time, if members of the board have any questions of Mr. Lawrence. Hearing none, I'll entertain a motion on the public hearing.

G. Sagar: I move we close it

Ch. Ross: Do I have a second?

R. Read: Second,

Ch. Ross: Second by Mr. Read, any discussion on the motion? Hearing none, all those in favor of closing the public hearing signify by saying aye, opposed no? Ayes have it 4-0.

G. Sagar: We have no zoning determination, Mr. Chairman

Ch. Ross: That's exactly right; this was a direct application for relief,

G. Sagar: So I would move that we approve the special use permit as presented by the petitioner?

Ch. Ross: Is there a second on the motion to approve?

R. Read: I'll second that too

Ch. Ross: Second by Mr. Read, any discussion on the motion? Hearing none, by voice vote, all those in favor of granting the special permit on this matter, signify by saying aye, opposed no, ayes have it 4-0. Good Luck Mr. Lawrence,

G. Sagar: Welcome to Seekonk.

Ch. Ross: Before we entertain a motion, why don't we deal, if no one has any objection, with the new business, its approval of the minutes of the June 20, 2016 meeting, does anyone have any addition or corrections to the minutes?

G. Sagar: nope

Ch. Ross: Do I have a motion to approve the minutes as submitted?

G. Sagar: So moved

Ch. Ross: Second?

K. Rondeau: Second



Ch. Ross: All those in favor of approving the minutes as submitted, by the secretary, signify by saying aye, opposed no. Ayes have it, minutes are approved. Do I have a motion from any members of the board to close the open session of the July 25, zoning board of appeals meeting?

M. Bayer: Mr. Chairman, before you close the open session, you have to vote to go into executive session and I have for your assistance, a chairman's declaration of what the motion to convene would be.

Ch. Ross: Ok, let me read this as presented to me by counsel. Before we do that, Ms. Bayer, were you here for a public hearing?

J. Parker: We thought the executive session was first,

Ch. Ross: Yeah, we entertained a motion at the beginning of the meeting to dispense with the order of the amended agenda, and to have the public hearings first at 7 o'clock, which we did. Both public hearings have been heard, voted upon and which were you here for?

J. Parker: Transit properties

Ch. Ross: They are the people that just left. You know we convened at 7 o'clock, as we have to, and the first order of business was the motion to dispense with order of business. So I don't know what else I can tell you. I can't reopen the hearing, everyone has gone.

J. Parker: Can you just answer a question?

Ch. Ross: I will if I can,

J. Parker: Do you know how many trucks they will be allowed to have at that property?

Ch. Ross: They are going to be parking 3 overnight. They have 10 trucks, but they are all in and out, and all of their drivers are mobile dispatched. So they will have 3 box trucks, no trailer trucks that will be stored overnight.

N. Abelson: No outside storage

Ch. Ross: There will be no outside storage of any materials; everything will be either in the office or the warehouse. By the way, they close at 4 o'clock for the day.

J. Parker: Thank you,

R. Hart: I wasn't really opposed to it; I was just looking for more information.

Ch. Ross: Ok, hopefully that was helpful.

R. Hart: Thank you,

Ch. Ross: Ok, so let me read, July 25, 2016, this was handed to me by legal counsel. I am going to read it verbatim; Board member Keith Rondeau must recuse himself from participating in the executive session, and I'm sure counsel will elaborate on that, chairman's declaration, the chairman declares that under Massachusetts General Laws chapter 30A, section 21 the purposes of executive session will be discuss litigation strategy and to conduct one or more potential votes regarding litigation known as "Ronald J. DiPietro et al v. Keith W. Rondeau et al, Bristol Superior Court, CA2013-00966 which is an appeal of the September 19, 2013 final action of the zoning board of appeals to grant the appeal of Mr. Keith Rondeau, from the failure of the zoning enforcement to respond to Mr. Rondeau's enforcement request, to limit the commercial activities at 400 Taunton Avenue, as conducting the discussion in open session could have detrimental impact on the position of the Town and the board. I think I will make this motion, I move that the zoning board of appeals go into executive session under Massachusetts

General Laws chapter 30A section 21, for the purposes and reasons declared by myself with the board, not to return to open session at the conclusion of the executive session,

G. Sagar: So moved  
N. Abelson: Second  
Ch. Ross: Do I have a second?  
N. Abelson: Second, all those in favor of going into executive session?  
G. Sagar: It's to be a roll call vote  
Ch. Ross: By roll call vote, Madam Secretary, would you call the roll please?  
B. Garrity: Chairman Ross  
Ch. Ross: Aye  
B. Garrity: Vice Chair Gary Sagar  
G. Sagar: Yes  
B. Garrity: Robert Read  
R. Read: Yes  
B. Garrity: Neal Abelson  
N. Abelson: Aye, yes  
B. Garrity: Keith Rondeau  
K. Rondeau: I abstain, and recuse myself  
Ch. Ross: If I may inquire of counsel, I think the other motion is premature at this point, correct?  
M. Bayer: Correct  
Ch. Ross: We'll do that after the executive session,  
G. Sagar: So we can close the open session so we can shut everything down.  
Ch. Ross: That's right, and we are not going back into open session.

Regular meeting adjourned at 7:31pm

Respectfully submitted,

Bridget Garrity, clerk