

**SEEKONK ZONING BOARD
REGULAR MEETING
MINUTES**

June 12, 2017

Present: Ch. Roger Ross, Gary Sagar, Keith Rondeau, Shane Halajko, Robert Read

6:00pm

Ch. Ross: It appears we are going to be delayed a couple of minutes, we are one member shy, and we haven't heard from him at all, right? Have you heard from Keith, anyone? Gary? No? It appears we are good to go. It's still June 12, 2017, the Town of Seekonk Zoning Board of Appeals is in session, before we get started, I ask that anyone here, please rise and join in the Pledge of allegiance.

ALL SAY PLEDGE

Thank you, so I'm going to go over briefly our practice, of the Zoning Board and explain our procedures, first thing I will do is read the agenda for this evening, if petitioners, owners are ready to go forward, we will take the matters in the order in which they appear on agenda. I, as we take each case, I will ask that the owner petitioner approach, be sworn in, present their case, I will ask at the close of the petitioners evidence if there is any member of the audience who wishes to speak in favor or in opposition to a given matter. I ask that anyone that wants to speak, please direct any comments to chair, and don't get involved in colloquy's or conversations, between persons, all questions or comments as I said, to should be directed to the chair. It is our practice, although it is not required to vote on each matter this evening, in certain circumstances, either because we request or require additional evidence, or we simply want to take more time to consider the evidence that has been presented we may take a vote at later date, which will also be a public hearing. At the close of the public hearing members of the board may have discussions among themselves and then we will take a vote, however the vote goes, assuming we vote this evening, whether in favor or denying a given petition, any party who is aggrieved by the decision of the board, as that term is defined in Mass General Laws has the right of appeals to the courts of the Commonwealth and that would be either Superior court or land court. I simply caution you that in the event that you want to file an appeal, there are very strict time and other requirements that apply for zoning appeals so I would caution you to either be aware of those statutory requirements or consult legal counsel if you so desire. Having said that, the agenda for this evening, first matter is case #2017-37 Deloras Hoskins, 18 South Wheaton Avenue, Seekonk, MA 02771 Owner/Petitioner requesting a Special Permit, under Section 5.1.4 of the Town of Seekonk Zoning Bylaws for relief from the minimum lot size of 14, 400 sq ft to 12, 496.8 sq ft in order to construct a proposed 12.6' by 36.5' addition at 18 South Wheaton Avenue, Plat 4, Lot 112 in a R-1 Zone, lot, containing 12,496.8 sq ft

CH. Ross: Is someone here on the Hoskins petition? Ok, thank you. Next matter is **2017-38 Angela Amadio Sorge**, is that pronounced correctly? Someone here on the Sorge? Ok I'll continue.

G. Sagar: Excuse me, could somebody go open the back door,

Ch. Ross: Is that locked?

B. Garrity: Someone un-clicked

K. Rondeau: Oh I closed it to keep the air conditioning in

B. Garrity: Oh, that's what it is.

G. Sagar: Excuse me Mr. Chairman,

Ch. Ross: I didn't notice that. We'll wait for madam secretary to come back and take the minutes,

Audience Member: May I step up for a sec? Paul Carlson is stuck in traffic; I know he is supposed to be, we're first on the agenda, Mr. Chairman,

Ch. Ross: Is that the Hoskins matter?

A. Member: Is there any way that we can, maybe push it off? He's stuck in Providence; there was an accident, so

Ch. Ross: We'll deal with it.

A. Member: Ok, Thanks,

Ch. Ross: You bet, Ok? So the next matter 2017-38 Angela Amadio Sorge, 89 Chestnut Street, Seekonk, MA 02771 Owner/Petitioner requesting a **Special Permit**, under Section 5.1.4 of the Town of Seekonk Zoning Bylaws for relief from the minimum lot size of 40,000 sq ft to 24,306 sq ft in order to construct an above ground pool at 89 Chestnut Street, Plat 15, Lot 111 in an R-3 Zone, lot containing 24,306 sq ft. Is there someone here on the Sorge petition? Still no one? We will hold that matter. Next matter we have a series of six petitions, all the same owner/petitioners first case number is 2017-27 Jeffery M Banna, Norma F. Banna, Janice M Peixoto (214 Taunton Ave), Jeffery M Banna, Albert G. Banna, Norma F. Banna, Janice M Peixoto (224 Taunton Ave), 214 and 224 Taunton Avenue, Seekonk MA 02771 Owners, Cumberland Farms, Inc Attn: Ms. Kathleen Sousa, 165 Flanders Road, Westborough MA 01581 Petitioners, By Farland Corp, 401 County Street, New Bedford MA 02740, requesting a **Special Permit**, under Section 4.2.4(a) of the Town of Seekonk Zoning Bylaw to dispense fuel/gasoline at 214 Taunton Avenue, Plat 20, Lot 596 in a Local Business Zone, containing 28,314 square feet and at 224 Taunton Avenue, Plat 20, Lot 470 in Local Business Zone and R-1 Zone, containing 3 acres. Next matter: same petitioners and same owners, requesting a **Variance** under Section 8.8.4.4 of the Town of Seekonk Zoning Bylaw for relief from the maximum height of a free standing pylon sign from 15' to 25' at 214 Taunton Avenue, Plat 20, Lot 596 in a Local Business Zone, containing 28,314 square feet and at 224 Taunton Avenue, Plat 20, Lot 470 in Local Business Zone and R-1 Zone, containing 3 acres. Case number 2017-29 same owners and petitioners, requesting a **Variance** under Section 8.8.4.6 of the Town of Seekonk Zoning Bylaw for relief from the maximum display size of a free standing pylon sign from 60 square feet to 116.52 square feet at 214 Taunton Avenue, Plat 20, Lot 596 in a Local Business Zone, containing 28,314 square feet and at 224 Taunton Avenue, Plat 20, Lot 470 in Local Business Zone and R-1 Zone, containing 3 acres. Case number 2017-30

same petitioner and same owners requesting a **Variance** under Section 8.8.3.3(d) of the Town of Seekonk Zoning Bylaws to allow for an additional identification sign on the western side (right side) of a proposed canopy structure at 214 Taunton Avenue, Plat 20, Lot 596 in a Local Business Zone, containing 28,314 square feet and at 224 Taunton Avenue, Plat 20, Lot 470 in Local Business Zone and R-1 Zone, containing 3 acres. Case number 2017-31, same owners and petitioners requesting a **Variance** under Section 8.8.3.3(d) of the Town of Seekonk Zoning Bylaws to allow for an additional identification sign on the eastern side (left side) of a proposed canopy structure at 214 Taunton Avenue, Plat 20, Lot 596 in a Local Business Zone, containing 28,314 square feet and at 224 Taunton Avenue, Plat 20, Lot 470 in Local Business Zone and R-1 Zone, containing 3 acres. Last case 2017-32 same owners and petitioner requesting a **Variance** under Section 8.8.7.1(c) of the Town of Seekonk Zoning Bylaws to allow for illumination of signs during all business hours at 214 Taunton Avenue, Plat 20, Lot 596 in a Local Business Zone, containing 28,314 square feet and at 224 Taunton Avenue, Plat 20, Lot 470 in Local Business Zone and R-1 Zone, containing 3 acres. Is there anyone here representing the owners/petitioners on the last 6 cases that I?

M. Kehoe:

Yes

Ch. Ross:

Ok, very good, thank you. And those are the public hearings that we have this evening, we also have a regular session for new business, which are approval of our last three meetings which we will do all in due course. We may have to take things out of sequence I'll do it on my own motion if we don't have any objection. On the first matter called Deloras Hoskins, case number 2017-37, there is an expert who I have been advised is tied up in traffic and apparently there is some kind of accident in Providence, so we are going to put that later on the agenda. Matter 2017-38 Angela Amadio Sorge, Chestnut Street in Seekonk, is someone here on that matter yet? Ok. We will continue to hold that for a while, so we are left with 2017-27 through 32, the Banna matters, owners, Cumberland Farms, I guess you're going to be up, quicker than you anticipated. Let me just, put this together, and let me just say, before you get started, this was a matter that was originally scheduled for May 15 of this year, and by, are you Mr. Kehoe?

M. Kehoe:

I am

Ch. Ross:

And on May, by letter dated May 12 of this year, the zoning board received a letter asking that the matter be continued until this evening's hearing, and the reason for that as I understand it is that in the interim you have to appear before the Conservation Commission, as well the Planning Board and you wanted their input prior to appearing this evening?

M. Kehoe:

Well, actually Mr. Chair, we have gone before both, and given their input, we revised our plans, substantially, and also in the interim we went for a second technical review, so we did have one other matter we did, but the plans that are before you this evening have been substantially amended from what was originally presented to Conservation and Planning.

Ch. Ross:

And those revised plans were dropped off at Town Hall, last Thursday as I understand it

M. Kehoe:

That is correct,

Ch. Ross: I picked up my copy Friday morning. Ok, I have reviewed them, I will ask you, if you don't mind, and just synopsis the revisions that were made to your plans. So you are representing the petitioner, Cumberland Farms, Inc. I take it?

M. Kehoe: That is correct, I representing the petitioner with authorization, we had originally composed

Ch. Ross: Just for the record, Mr. Kehoe, would you state your name, your firm and your address on the record?

M. Kehoe: For the record, my name is Michael Kehoe, I'm an attorney in New Bedford Massachusetts, with Partridge, Snow and Hahn, at 128 Union Street, Suite 500. And what we have proposed is a Cumberland Farms convenience store with fuel dispensing, as you can see on the easel there is a rendering of what the proposed structure would look like, along with the fuel farms, that's obviously computer generated, but if you've gone by a new facility, that's a pretty accurate rendering of what the new facilities look like. We have a building over a little over 5000 sq ft, which will be used primarily for convenience items, food, both for onsite consumption, take out and packaged foods. There will also be coffee etcetera, and then you'll have your fuel pumps in the front where we hope to dispense gasoline and diesel, mostly gasoline though, regular to premium. What we originally proposed was the same size store, same fuel pumps, but our underground storage tanks would be, if you are looking at it, as you are on this easel drawing, to the right of the building, and we also have a dumpster area, where you'll see those picnic tables over here. And what we did was, was flip the underground storage tanks to the left side so we are now out of the jurisdictional area of the wetlands, we were within the 100' buffer before, now we're beyond the 100 foot, we also did the same with the dumpster and we did some changes as well at some of the shrubbery we now have a tree line or a shrub line in the rear of the property that extends much further than it did before, we have some other changes as well, relative to the storm water detention areas and the storm sectors which (INAUDIBLE) been replaced with a different product that was recommended by conservation. So we have had that, we've also taken, it's not reflected on this plan, but we have Francisco Lovera from McMahon Associates he did additional traffic studies at the request of planning. The traffic study will include Evelyn Way as well the two weekends. So we had a little bit of work to do to and it would be in the best interest of this board to have the most recent plan to look at and review when making decisions.

Ch. Ross: Just to interject, if I could Mr. Kehoe, your traffic study, your revised traffic study was dropped off at Town Hall late this morning

M. Kehoe: That's correct

Ch. Ross: I didn't see it until about 5:45 this evening when I got here; I assume the other members are the same. So I mean, it's fairly lengthy and I'm just going to advise you that I haven't had a chance to look at this, so that may have some impact on where we go this evening.

M. Kehoe: I appreciate the candor, Mr. Chair, and I fully understood that given the fact that it was only submitted today, that you may not have had a chance to review it, I've certainly have the traffic engineer here, who can speak in greater detail, but in summary, the conclusion was that there are sufficient gaps, that they call them, in

order for the traffic to come in and out of this facility without interrupting the existing traffic on either Pleasant or Rt. 44, Taunton Ave. Also, that there would be adequate site lines and thirdly we don't want have any adverse impact on Evelyn Way, in fact we don't have an impact on Evelyn Way. This summary, the memorandum is in addition what was previously filed, so what Mr. Lovera and his colleagues were tasked with in the summary in the memorandum is to study the traffic on Evelyn Way and then to also take into account the fact that we went from three entrances, one was an exit only, but three curb cuts if you will, to two, one on Rt. 44 and one on Pleasant. So they wanted to know if that was going to have an adverse impact on the traffic as well.

Ch. Ross: Okay

M. Kehoe: And the conclusion that Mr. Lovera had certainly he can speak to them in far greater detail, than I but the conclusion where that revisions to the plan did not have an impact negatively on the traffic and that we didn't have a negative impact on Evelyn Way, there was some concern expressed at one of the other board meetings, at the planning board meeting that Evelyn Way is a used by folks who sometimes exceed the speed limit, there is no posted sign, and there was some concern about the increased traffic as well that might be generated by a Cumberland Farms and traffic studies would indicate the increase is negligible if any, I mean that's not normally a route people would be using to access us anyway.

Ch. Ross: Just to be clear, for the record, you refer to the traffic study by McMahan, as a revised study based on planning board recommendation, to the best of my knowledge we never saw an original so this revision is the first traffic study that I am seeing.

M. Kehoe: There is a much

Ch. Ross: The first one never reached this board, I believe

B. Garrity: If it was, it would have been in the application from them

M. Kehoe: I made copies of the traffic study for both planning and zoning board, what you have before you tonight, just to be on the extra cautious

Ch. Ross: Understood, understood.

M. Kehoe: Ok, so whether it was part of the original submission, I didn't know, as far as that is concerned, I wanted you to have it.

Ch. Ross: Yes, and I appreciate it.

M. Kehoe: There were issues that were brought up by another board, their concerns. What we have though tonight, I know there are 6 but essentially two, one I call it a sign package and the other is the special permit for being able to dispense fuel, and so I don't, Mr. Chair how would you want to handle the sequencing of it?

Ch. Ross: My sense on this, and we've done this before, and correct if I'm wrong, I assume that you're evidence will be comprehensive, and it won't be case specific.

M. Kehoe: Correct

Ch. Ross: Ok, so my preference is to consolidate the six petitions for purposes of taking your evidence, and then we will vote on each matter individually, and I think that is a more efficient use of everyone's time.

M. Kehoe: I agree, I agree

Ch. Ross: Ok, so without objection you can proceed as you so choose.

M. Kehoe: Ok, well, as far as the special permit goes, as you're aware of the standards for the special permit, the request of a special permit should be granted unless the requested action under the special permit would be a substantial deterrent to the neighborhood, and in this particular case, we have, I guess it's some three anyway, three gasoline stations in the neighborhood, gas station meaning facilities you can go by gas some have service, some don't. This will not have service, just gasoline only. What we propose to put in is to put in the absolute state of the art, UST's underground storage tanks, and delivery systems. I respectfully submit we probably have, certainly there is no better system that's going to be utilized today in Massachusetts. We'll have one of the best, state of the art systems that can be obtained. And that is monitored 24 hours a day, seven days a week, there is, it is monitored, not just in the facility, but it is monitored in a central location through the computer, and human beings, so we're fairly comfortable that this system is going to be extremely safe, we have a had an expert before in other matters who has demonstrated that we have to get a license for these tanks as well, from I believe your select board, so the UST's have to be licensed, but we have a package which that particular expert puts together, and it demonstrates this is a double walled fiberglass interstitial brine system with both audio and visual monitoring, so and the same thing with the delivery system. This system is capable of shut off with minimal, if there is any leakage it's very minimal, and it's usually trapped in the interstitial brine, that's the whole point of it. So we do have a very comprehensive safety and procedure for monitoring the safety of this system, it is used throughout the Cumberland Farms systems in all the new facilities and believe me the safety is step one in this system. That's why they don't spare any expense on the UST delivery system and monitoring of it.

Ch. Ross: But, if I may ask, is Massachusetts like Rhode Island, now requiring double walled UST's?

M. Kehoe: They do

Ch. Ross: They do ok, Thank you.

M. Kehoe: And I would point out the site itself, although abutting Banna Estates, it's no closer, the tanks are going to be on the furthest that we can put them, and still maintain your zoning requirements, and the requirements for the planning, so these underground are going to be put as far away as we can from any dwelling. They're on the extreme left side, which would be the left side of the site. Essentially, right over here. So that was one of the benefits of the amended plan. It took it even further away from any houses. I believe there are, like I said earlier, there are other facilities which are in the neighborhood, so this is a use consistent with the neighborhood. This is a local business district and the Cumberland Farms retail part of it is as of right, we meet the dimensional requirements, we aren't asking for any dimensional relief to put the building up or install the tanks, or the (INAUDIBLE) we have of that, under control under your by laws, we meet those standards. So this is a special permit, I believe was inserted into your bylaws within the last year, year and half, that requires us to come before you for a special permit. And that gives you an opportunity to see the proposal see what the tanks are, and to determine if the applicant is worthy enough to install the correct

tanks, maintain the safety of the tanks, with the inspections and the monitoring and all that. So it is Cumberland's position that they meet those requirements, they actually we believe, exceed the safety requirements, and that there their proposal will not be of substantial detriment to the neighborhood, in fact there are already facilities doing exactly what we seek to do that are in the immediate neighborhood. They, I don't believe they have convenience part of it, but they have fuel dispensing and some, like I said may have service, we don't we're not servicing cars, we are not changing oil we're not doing any of that, and I'd submit that even across street from this facility you have a car dealership where they do have service, they don't sell fuel, but they do oil changes and radiator flushing and etcetera. We aren't doing any of that, we are not maintaining any facility to do that. What I'll do now is introduce Christian Farland, just to talk a little bit regarding the safety, if you will, the storm water and also particularly, any run off that may happen any runoff that may happen from somebody fueling, how that would be handled. Because we did incorporate what conservation wanted to take care of that situation.

Ch. Ross: Ok, Mr. Farland, before you testify, would you, put up whatever you need,

C. Farland: Good evening Mr. Chairman

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

C. Farland: Yes

Ch. Ross: And would you state your name and business address and affiliation for the record please?

C. Farland: For the record, Mr. Chairman, board members, I'm Christian Farland, principal engineer and president of Farland Corporation, Civil Engineering, Land Surveying and Site Construction Company out Of New Bedford Mass.

Ch. Ross: Ok, thank you

C. Farland: If I could do, briefly go over the (INAUDIBLE) site, (INAUDIBLE) homeowner, design which has been presented to the planning board and the conservation commission in addition to the two peer review

Ch. Ross: Could you give me a sheet number on that, please?

C. Farland: Sure, sheet number would be CF24.0

Ch. Ross: 4.0, I've got it, thank you,

C. Farland: So the storm water, as I have mentioned has been before the planning board and conservation commission has asked us to meet the DEP storm water requirements, which the 2 peer review consultants have had a chance to review the drainage design, and had a chance to comment on it, we have since submitted revised plans to address, not only their comments, but the conservation and planning board as well. They have the revised plans in front of them, we anticipate another week or two to get their final comments, at which at that point we again will make some minor revision if need be to finalize the plans.

Ch. Ross: I missed one thing you said, if I could ask, did you say this was peer reviewed for the conservation commission,?

C. Farland: Yes, for both of, for both planning board and conservation.

Ch. Ross: Conservation, thank you

- C. Farland: We have been working on behalf of the town VHB Engineering and CEI are both looking at. So it's basically is a standard conventional roof design, many Cumberland Farms, throughout the State of Massachusetts, in which we basically recharge as much as we possibly can from the rooftop and the canopy. The canopy is very important, that way storm water just doesn't fall onto the concrete area, and it's basically getting recharged so there is no rain water falling on the concrete itself. That goes into a recharge system along with the rooftop, we try to recharge as much as we possibly can, every site is a little bit different, the soils, this site here, we have pretty good infiltration rate which allows us to infiltrate more than what we actually need. So all the water going into the recharge system considered clean water and that infiltrates and then as much as we can and it overflows into this site works out really well with drainage because of the existing drainage system, open basin, within the property that we tied into. Overall the posted development is less than pre development and also not only with volume but water quality as well. So we have, say it's going to be an improvement to the site. We also have a smaller basin over here this state highway layout, so we have to capture as much of that water before it leaves the site as possible, so what we typically do with small areas like this we have a trench drain which captures a small amount of water that goes into our contact oil water separator, and that then goes into a smaller open drainage area, over here, which has a smaller water quality in it before it overflows into the larger area which eventually leads into the drainage system. The remainder of the water we do have two other contact oil water separators within the site, so when water from the asphalt, pavement gets directed to those the SS is over 80% for those units alone and those go actually into the recharge system and there is a overflow there again, that goes into a larger drainage system. So overall it's a drainage system that meets DEP requirements, certainly addresses any possible contamination of, you know, worst case scenario I think Attorney Kehoe mentioned, Cumberland Farms is a very good customer for the town, in regards to having all protocols in place. This isn't a typical mom and pop gas station facility, this they're backed by great management and certainly their reputation alone working throughout the country is, is a, very good. I'd like, if you want I can go into other details I think the storm water was an important one that I wanted to just brief you on, if you have any other questions into regards to the civil site, I'd be glad to answer them for you.
- Ch. Ross: Do any members have any questions at this time, of Mr. Farland? You're all set for the time being Mr. Farland.
- C. Farland: Thank you,
- Ch. Ross: Mr. Kehoe you have?
- K. Rondeau: So you have 3 oil water separators and all three are going into the recharge system, or 2 out of 3?
- C. Farland: Two out of three, we have the cvs one on here, and two here, these two are going into here with the overflow going out, the third is down at the entrance where the trench drain goes into the water quality and discharged out there.
- R. Read: Which ones were you pointing at? I can't see from here.

C. Farland: So we have two, in both areas here, and the third is down off the pavement which is (INAUDIBLE) catch basin. And all the design calculations have been provided per the consultants.

Ch. Ross: Any other questions of Mr. Farland? Mr. Kehoe,

M. Kehoe: Thank you Mr. Chair, with that I would like to close out the formal presentation regarding the special permit request we still have the sign package and I can move on to that.

Ch. Ross: The variances,

M. Kehoe: What we have as you can see, from the artist drawing, we have some signage that is pretty typical,

Ch. Ross: I'm sorry, can you give me a sheet number?

M. Kehoe: Sure, this is CFG13. So we go to number 28, that's this pylon sign, you can see it in the artistic drawing at the bottom here, the colored photograph, what it actually looks like on site. The by-laws allow for a 15' high free standing sign, this will be 25' it will also, there is an ancillary, some of these are ancillary to it, for instance the square footage of the next one 29, it's talking about the square footage of the sign, and this particular sign has about 116.52sq ft of signage which is in excess of what would normally be allowed by your zoning by-laws. As you can see we have at the top, we have the Cumberland Farms name, so that is broadcasting, so right beneath are the prices of gasoline. It is somewhat unique, it does change, that is computerized so the gasoline prices can be changed without sending someone out to the sign to put different numbers up, and right below that they a message board. That message board will have advertisements for internal for Cumberland Farms so for instance it may say, "free coffee today", or something like that. It's not a movie, it's not going to be a movie, it won't be with the frequency that would have any impact on traffic, we're not trying to distract people, I mean, it will promote something within the store.

Ch. Ross: Just so you know, I didn't see it, in your request for relief, but out zoning by law limits you to one change daily

M. Kehoe: That would be sufficient, I mean these are not something that would change frequently, that's what I'm trying to say, they used the digitalized portion of it so they can change their ads without, again, having to rip something off a sign, put something up, or send somebody out. These are promotions within the store, so they are not, um I don't even know the frequency, but I would say to you that we certainly, that's not going to be a problem.

Ch. Ross: Ok

M. Kehoe: Ok, they don't change often and usually they promote,

G. Sagar: Before we get too far into this, and we've got a lot to talk about here, first of all, I question the location of the sign. It is in direct conflict with section 8.10 of our by-laws, on page 87, no sign, or sign post is supposed be within 60' of an intersection, as far as having a digital message board, which are right, our by-laws don't allow them, so that is a separate special permit, over and above which hasn't been asked for.

Ch. Ross: Yeah, you are within 60' of an intersection. Is it 60' Gary, I don't have

G. Sagar: Yes. It appears to be. It's a difficult road too, because it doesn't come out at a 90° angle,

Ch. Ross: Right
G. Sagar: So I would, my preference, I won't approve it there; I'd like to see it moved down to the main entrance, I mean they have other locations that they can put it but I think it would make more sense to put it down there.

M. Kehoe: More towards the, uh, the east side?
G. Sagar: Heading east on 44. And that sign as designed couldn't be allowed without a special permit. Which by the way, be the digital part
Ch. Ross: Where it says "Watch fire message board"
G. Sagar: Yes
M. Kehoe: Below the prices for the gasoline,
G. Sagar: The whole thing,
M. Kehoe: The gasoline prices as well?
Ch. Ross: Yes, it's all digital, right?
G. Sagar: Yup. That's all I have on those two,
Ch. Ross: Yup. Ok
M. Kehoe: The next request was to allow the illumination to be at all business hours. Obviously, for purposes for of the price, that would be a requirement, people would have to know how much the gasoline costs, signage for would be, for um
G. Sagar: Can I interrupt you for a minute? You're jumping ahead if, isn't that 2017-32?
M. Kehoe: It is, that's 32?
G. Sagar: Did you talk about 29, 30 & 31?
M. Kehoe: Not yet,
G. Sagar: Oh,
Ch. Ross: Consolidated everything,
M. Kehoe: I was trying talk out the information
G. Sagar: I just thought we'd take them in order
M. Kehoe: Ok, I can do that,
G. Sagar: Just so it's easier for all of us to follow, especially me.
M. Kehoe: That's fine, so we have
G. Sagar: It'd be 29, right?
M. Kehoe: we have number 28 and 29, which we just went through, 28 being the height of the pylon sign, and 29 being the amount of area of signage, if you will,
G. Sagar: And that variance request basically double what is allowed,
M. Kehoe: It's pretty close to double
Ch. Ross: Pretty close
G. Sagar: Pretty close to double
M. Kehoe: Pretty close to double, where we would go from there to 30 and 31, I call them sisters, or parallel, the one is regarding the sign for the western side of the canopy, and the other is eastern.

G. Sagar: Could I just question that? If I understand this correctly, based on your north arrow, is this backwards? The right side is we're facing from 44, correct?
M. Kehoe: Right
G. Sagar: So the right side would really be the easterly side, wouldn't it?
M. Kehoe: Correct
Ch. Ross: And the westerly side would be towards Providence,
M. Kehoe: Correct,

G. Sagar: Am I reading this right, is this wrong? Western side to the right, the western side should be the left, shouldn't it?

M. Kehoe: If you are looking at the building, you are absolutely correct.

G. Sagar: Is that how it was determined? That's how it looks right from 44, facing

M. Kehoe: I would say, the way I have is, the western and the eastern side has parts of canopy.

G. Sagar: You're the engineer, so you agree with me, that here's north,

C. Farland: True

G. Sagar: And there's east and there's west. Ok, alright, thank you,

M. Kehoe: What we have is what you can see up on the eastern side, CFG 12, we have the canopy signage, it's a Cumberland Farms, it says Cumberland Farms with their logo, and that is roughly 11 sq ft. on each side.

C. Farland: This is a good visual, depicts it more accurately

Ch. Ross: Okay

R. Read: Business hours are going to be what?

M. Kehoe: I think the request that had been made with planning was 24 hours. When we spoke with Planning, there wasn't much that was said about the hours, but we are going to be meeting with them tomorrow, as a follow up, so we have tonight, later on conservation follow up, and tomorrow we have follow up with planning.

Ch. Ross: Okay

M. Kehoe: You know, essentially the signage that we are showing, it's typical of a Cumberland Farms. It's actually subdued, somewhat because of their new designs, and if you ever drive by one of the existing new Cumberland Farms you'll see what, what I mean, by subdued. The lighting is not glaring, in fact the signage almost looks like landscape lighting in some respect, obviously, not the pylon sign, that tells you the price of gas, and it also has a dimming capacity, so we don't keep it illuminated at full lumens, it goes down as the evening progresses.

G. Sager; Mr. Chairmen, if I could,

Ch. Ross: Yes, go ahead,

G. Sagar: You have an existing facility on the corner of Warren and Fall River Avenue, in our town

M. Kehoe: Yes

G. Sagar: And they have no pylon sign out front and that is a busy intersection there is signage on the canopy and there is signage on the building, Cumberland farms I go to a lot I another community, has a pylon sign but it doesn't have one on the canopy. And these are fairly new ones, there's a whole bunch of different packages, that are out there, moving that sign, in my opinion, towards the middle of the property would eliminate the need for having any signage on the canopy because you are half, on the property, in my opinion it can't stay there because it's within 60' of the intersection, in violation of our by-law, and now you have asked it to be double the size, with the variance,

M. Kehoe: Correct

G. Sagar: Correct? So my point is from what I see from other Cumberland Farms, and fairly rebuilt or rebuilt, your signage request is excessive; I mean we can talk about it somewhere else as we move forward.

Ch. Ross: Mr. Kehoe, I want to make sure that I'm clear, other than the pylon sign, what do you proposed to have illuminated?

M. Kehoe: The pylon sign would be illuminated, there's also, just the building has illumination on it

Ch. Ross: I'm talking in terms of signage,

M. Kehoe: Oh, yeah, well right up front there you'll see

G. Sagar: So the signs are not illuminated, just the building is illuminated?

M. Kehoe: Yes,

Ch. Ross: Okay

G. Sagar: That makes a difference,

Ch. Ross: Yeah, okay, that's good to know.

M. Kehoe: Now, we'll be certainly take in to consideration about where the pylon is, and again we're still going to be meeting with planning tomorrow night, as Mr. Farland indicated there are more changes, hopefully minor ones if there are any, but we'll certainly be mindful of that, the goal of having that pylon is just so people can see the price of gasoline, and know that Cumberland farms is, they are approaching a Cumberland Farms. As they get closer, they might actually see that there is something that they might want to buy inside the store. I think you might remember in the old days, you would see those signs on the windows of the store, that's to eliminate that.

Ch. Ross: Yeah, do you have, you have a traffic engineer, do you

M. Kehoe: We do,

Ch. Ross: Do you have anything else you want to present at this point?

M. Kehoe: No, I think

CH. Ross: It's yours, you can choose

M. Kehoe: we put everything out, the signage that we are requesting, we feel is in keeping with what you have on 44 now, it's a little more coordinated, but are a certainly mindful of changes that might make it even better for the town.

K. Rondeau: Mr. Chairman, I just had a couple of questions,

Ch. Ross: Yes

K. Rondeau: Our by-laws state that the pylon sign should be 15' in height, and given the elevation in that area, for both ways, it elevates towards that is, there a particular reason why you asked for 25', it seems like it would be excessive.

M. Kehoe: I think, I think part of the reason and I can speak fully, maybe Mr. Farland can, but part of the reason was that we have, as you notice on the pylon, we have a Cumberland Farms name, the price of the gasoline and the message board, and then there is a planter on the bottom, decorative planter we want to have some space between the two or else I think that could be a problem. Um, but other than that it's for visibility,

K. Rondeau: It's not much different than most of the other signs that are in town. BayCoast, we just put up BayCoast, how high is that, its 15' isn't it?

G. Sagar: I don't believe we had to give them a variance, so

K. Rondeau: I think they did that extra signage, BayCoast signage on the sign, not extra height.

Ch. Ross: What type of grading is going to be done on this property, prior to construction? Do you know generally?

- M. Kehoe: There is going to be some grading, you're quite right, the western side of the property is the high side. Um, there is also some rock outcropping, which making it totally flat impossible so there'll be some grading, that height will come down slightly, but it will still be a high point of the property. Um, the 15' or even in our case the 25' is taken on the average grade around the sign, the design of the 25' was to accommodate the message board, the price of the gas and the name, if you will. But by the way, we also have to put the number of the facility either on that pylon sign or preferable on the building, which will be done per the fire chief's request. Which wasn't shown on this but will be done. At the last technical review, I think it is primarily for visibility, so it can be seen, and it doesn't impede sight lines of traffic, that was a big concern, so we wanted to get the signage up high enough so if you're sitting in a car you wouldn't see the, you wouldn't block from view, oncoming traffic, that was the primary purpose. Um, it's probably akin to the purpose of your by-law for not within 60'.
- Ch. Ross: Right, that's come up in the past, the intersection, one on Fall River Avenue, recently.
- K. Rondeau: Mr. Chairman, I think we agree if they had a lower sign, they wouldn't looking for (INAUDIBLE) signage either,
- G. Sagar: Even if they get the variance, they'll have to come back for a special permit, because it is digital,
- Ch. Ross: Right, I don't see how the height of the sign, and I'm not making a case one way or the other, would have any impact on the area of the sign.
- G. Sagar: It's bigger; you can have a bigger area to display
- K. Rondeau: Right
- G. Sagar: It's only 15' high; as opposed to 25' you've got an extra 10'
- Ch. Ross: Yeah, okay, yes. It's assuming that the sign is going to be reduced rather than, everything that is below it
- G. Sagar: Yeah,
- C. Farland: If I may, Mr. Chairman, the um, the sign, I can certainly talk to our client about possibly reducing that to 15' because you've all made a good point, it is the highest elevation there, so that might help out with sight distance as well, so that's something I can definitely take a look at, um, but the one issue I do see is having to move this any further down, you're going to run into the issue with setbacks, from the property line, because are limited, we only have 11', I believe to the setbacks on the sign, and most likely need the 60' variance, I think we can push it further away from that intersection, but moving it anywhere else, I just see issues with it. Um, also with the sight distance issue, which is more important to me, than anything, we have vehicles out there and pushing the
- Ch. Ross: That is a safety issue
- C. Farland: That's definitely a safety issue, that's the reason you want to have it at least 10' away from the property. So I think we can work with a happy medium and pushing this far away from the intersection and maybe we can reduce it down to 15' because of the topography of the area anyways, (INAUDIBLE) the gap between the planter and the sign is actually for sight distance, you can see through that gap, there which allows

Ch. Ross: The two issues we've been discussing as I understand it, which as we sit here tonight, are not even in front of this board, are the location of the pylon because it is within 60' of the intersection one way or the other, and the digital sign itself. So

C. Farland: Exactly

R. Read: Mr. Chairman, the square footage of the sign would not decrease by lowering the sign. It doesn't count the space at the bottom.

Ch. Ross: That was my point before, I thought that, you know without knowing, I just assumed that if you dropped the sign by 10' it would be area below that message board that would be eliminated, and not the sign itself

M. Kehoe: That's what we would try to do is your assumption is correct, I think what Mr. Farland pointed out, we have to think about how to do it, and still keep the sight lines appropriate

Ch. Ross: Yes

M. Kehoe: It's crucial with planning, and frankly tomorrow evening when we talk to planning we can discuss that as well

Ch. Ross: And we have our own issue and criteria and by-laws to deal with, and obviously sight lines and safety are paramount in every one's mind, even though it is not strictly one of our issues.

G. Sagar: It's spelled out in section 8.10 of our by-law, corner visibility 2.5 to 10' there's got to be no obstructions. Would I be right to assume, that if you don't get the special permits for the gas, you wouldn't build this store?

M. Kehoe: Um, I think that is a fair assumption to make a special permit, although Cumberland Farms has done it in the past, they have stores without the gas, I think one that comes to mind, um, in that case I think they already own the site, they don't on this case, this is under a purchase agreement. So, I would go out on a limb, not having talked to my client about it, but I would bet that that is the case, and you are correct

Ch. Ross: Okay. Any further questions of Mr. Kehoe or Mr. Farland to this point?

S. Halajko: Are we wrapping it

Ch. Ross: No, I don't think so, I think you have at least one more witness, correct? Or are you just submitting the traffic report

M. Kehoe: We would submit it; we brought Mr. Lovera here if you had any questions of it, but, if you don't

Ch. Ross: I've got to tell you, I don't want to repeat my own comment, I haven't looked at it, any questions, that I have would be superficial at best, and I'm not a traffic engineer, but I've got to digest this, so I'm not prepared to question your traffic person this evening. And it looks like we are going to have to have another meeting in any event.

M. Kehoe: I would think, I'm more than happy to sign a paper to extend, but I believe we are coming up on a time limit, so um, I'm more than willing, on behalf of the applicant,

Ch. Ross: I'm not sure, but once we started the hearing within 65 days, I think we're ok.

B. Garrity: We can continue

Ch. Ross: We can continue so we are not running afoul of the 65 days statutory limit

G. Sagar: We only had a few more days to open the public hearing

Ch. Ross: That's correct, that's correct, and we have no intention of unduly delaying your project but we need, we need to look at some of this documentary evidence, and we'll have to come back anyway, to address the two issues that were raised by Gary this evening, and the pylon sign height and location,

M. Kehoe: And the digital nature

Ch. Ross: And the digital issue

M. Kehoe: On display

G. Sagar: That's going to require another filing, right?

M. Kehoe: Yes it will

Ch. Ross: Yes. Ok, so I take it you want to submit the traffic report as an exhibit,

M. Kehoe: I think an exhibit will be fine

Ch. Ross: Okay

M. Kehoe: To our,

Ch. Ross: So you can mark that as petitioners "A", or "1" whatever you chose. Do you have any other evidence, Mr. Kehoe?

M. Kehoe: I respectfully request that we continue so we can supplement and come back with something that may be more in keeping, and probably would have at least for the digital even if we get passed the other, we have the digital issue, which would require a separate filing, but to do that, I think we are going to re-design it a little bit more for (INAUDIBLE),

Ch. Ross: And we're certainly willing to accommodate you, do you want to leave the matter open in terms of continuance date, or should we set something down this evening? I'm a little reluctant to set something down, because you've got to

G. Sagar: We have to

Ch. Ross: We have to set it down for a date certain,

G. Sagar: Yes, we do

Ch. Ross: Do you have any idea how long it's going to take to redraft whatever you have to redraft?

M. Kehoe: Well, we'll know better after tomorrow, but I would suggest that, probably, when is your next meeting?

Ch. Ross: We have nothing pending, so, 30 days?

M. Kehoe: I think we can, 30 days, anything within 30 days

G. Sagar: We need a minimum of 2 weeks? Three weeks

Ch. Ross: Yes

B. Garrity: 2 weeks

G. Sagar: 2 weeks, just to advertise

Ch. Ross: Well, we're still in May there, so that's not

M. Kehoe: I'll flip this over and we're dealing with the 4th of July, so that's going to be problematic,

M. Kehoe: There's June do you want to see July as well.

Ch. Ross: We're on the 12th, I think we're going to have to, we won't have time to advertise, it looks like the week of the 10th,

M. Kehoe: The 10th would be good

Ch. Ross: The 10th, does that work for everyone?

G. Sagar: I'm ok with that

R. Read: July 10th?

Ch. Ross: July 3rd is the day before a holiday; we're not going to do that.

B. Garrity: I won't be around July 3,

G. Sagar: The 10th actually gives you less than a month, would the 17th be better?

Ch. Ross: It's 4 weeks, it's less than a month, but its 4 weeks.

B. Garrity: Everything else is staying the same, if we are looking to continue to hear, what were' doing tonight, and looking to hear any additional, yeah, that should give me plenty of time

Ch. Ross: We're not (INAUDIBLE) we'll take comments, from people who are here, because they have been here once already before, but we're clearly not voting.

B. Garrity: As long as we have the application in no later than the 21st of this month,

M. Kehoe: It will be this week

B. Garrity: Fantastic

Ch. Ross: Do we have anything pending other than that matter?

B. Garrity: A couple of people have taken applications, but nothing has come forward?

Ch. Ross: Is everyone good with 7, or should be we go 6?

K. Rondeau: I think 7,

G. Sagar: Yeah, if that's all we've got yeah, that's fine

Ch. Ross: So July 10th

K. Rondeau: 6 is a bit of a hardship for me,

Ch. Ross: Yeah, July 10th at 7 o'clock, and basically the ball is in your court on filings and revisions and all the rest, and taking our comments into consideration, however you chose.

M. Kehoe: Absolutely

Ch. Ross: Let me just poll the audience, we have, Shane, go ahead

S. Halajko: So, my comment regarding this whole, project is I've been into these Cumberland Farms and they are all well done, very well built and I don't deny that I definitely wouldn't deny that you don't use you do use the top of the line equipment, safety concerns, I just do not think this is the right place for it. We're going from a farm to a gas station, if I'm a resident in that Banna Estate, that is changing the scope of their neighborhood. It could be lessening their home values, you're going from a nice peaceful rural area, to now you have um this big uh convenience store gas station that's open 24, 7 days a week, I just, again, I just don't think it is the right area for it, I think we have enough convenience stores and gas stations on 44 especially down east, that's it, that's all.

Ch. Ross: Mr. Kehoe, May I ask you a question, I may be missing something very obvious, here, your traffic engineer McMahon,

M. Kehoe: Yes, sir

Ch. Ross: His cover, his memorandum cover letter is addressed to some concern in Indianapolis, what is that about?

M. Kehoe: That's TF Crowley they're the development agents for Cumberland Farms.

Ch. Ross: Cumberland Farms, oh, okay.

M. Kehoe: We're actually working with the applicant, just on design

Ch. Ross: Okay, thank you, is there anyone in the audience who wishes to speak in favor of this petition? In favor of the petition? Hearing none, is there anyone in the audience who wishes to speak in opposition to this petition?

R. Read: Mr. Chairman, can I make a comment or ask you a question?

Ch. Ross: Sure,

R. Read: Maybe somebody should explain the zoning situation at that spot that would maybe clarify some of Shane's thoughts.

Ch. Ross: Well, the one of the lots is split zoning. There are two lots involved, one is local business, and the proposed use is authorized by right, under the local business, the other lot is split zoning, and I don't have the plan right in front of me, there a zoning line that goes through the parcel that's the three acre parcel a portion of it is local business and a portion of it is R-1, residential 1

B. Garrity: Yes

Ch. Ross: It's residential in any event. So that puts a slightly different cast on being authorized by right, on that portion that is residential. As for the special use permit Mr. Kehoe is, of course, representing his client who, as I understand it, his statement of the law is correct, that a special permit will be granted unless the proposed use will have a significant detrimental effect on the neighborhood, or the immediate neighborhood. Having said that, I think that is sufficient, Bob?

R. Read: Yes

S. Halajko: I had, fully, I knew what the zoning was involved, I was just giving my own feedback

Ch. Ross: That's fine. I just want to point out, before I hear from anyone, there was an online petition, that was started it was addressed to the Board of Selectmen, the Town Planner, the members of this board, members of the conservation board, and a number of other persons. There are people here, all named with their towns or cities and states, the comments are dated, some are just brief sentence some are a paragraph, have you seen this Mr. Kehoe?

M. Kehoe: We did see this, Mr. Chair

Ch. Ross: Okay,

M. Kehoe: It was submitted at the conservation hearing,

Ch. Ross: I just want to tell you that, this is just my position, every member can decide for themselves, we will accept this, but the petition goes to weight, in other words, how significant we find the comments, here to be, in terms of what's actually before us. I mean there are a number of people on this list, who from out of state, there is one from Virginia, I'll tell you right now, I give that no credibility and no weight, there are people from Rhode Island, people from North Dighton, I'm sorry,

B. Garrity: There are only 5

Ch. Ross: I'm advised, and I take madam secretary at her word that of the purported 240 people who support this petition, there are 5 who are within the 300' radius of the proposed site. There are an awful lot of unsupported conclusions of scientific statements in here, so I just want to let you know, that we are accepting it, we will consider it for whatever weight every member wants to give it, but I've made my statement. Having said that, I don't intend to prevent or prohibit anyone from speaking, and don't intend to cut anybody off, but what I do ask, is I would prefer not to have everyone coming up and repeating the same statements over and over again. If you have, if we've heard the statement a couple, or three times, we get it, if someone has something different, to say or something new to say, that's fine, but I'm not going to cut anybody off but you know, with that caution, if you will,

I can, just someone put up their hand please, and I'll just call on someone, the lady in the back in the black please. Hi, would you raise your right hand please, and would you state your name and address for the record please?

Pam Bochiechio 7 Richard Banna Way,

B. Garrity: Can you spell that,

P. Bochiechio: my last name?

B. Garrity: Yes, please

P. Bochiechio B-O-C-H-I-E-C-H-I-O

Ch. Ross: The floor is yours

P. Bochiechio I am one of the closest abutters, so it does impact me immensely, which is why I am here tonight. As you know this project a retail area plus gas/service station is proposed in a local business district abutting a residential district until last year, all services including gas stations were prohibited in those areas, it was changed in May of last year. We as a community were not involved in that decision did not participate, and were not notified until this happened. Certainly we know we cannot change that now, but just to make that clear that we had no involvement in that change (INAUDIBLE) the exception is for a fuel/gas station which is defined as premises used to support or sell motor fuels in conjunction with a retail service operation, a retail sales operation. Adding retail to a fuel station does not transform a fuel station, it is a still a gas station, it actually makes it's useless benign, the negative impacts of a fueling station such as the one proposed with 5 bays, so that is 10 actual pumps still remain, there is still potential for leaks even with the best of technology, there are still underground tanks there are leaks that happen right at the pumps, there are visiting cars, which cause both exhaust pollution and noise pollution, there is a constant noise that's associated with a 24 hour operation, that we as a community would get no rest from it. There's (INAUDIBLE) will these impacts with a 24 hour fueling station compound and intensify a large retail store added to it, it doesn't diminish the aspects of the gas station, it magnifies them, adding more volume of people that are coming to that site. And with that in mind the scrutiny of the board must also be in (INAUDIBLE) because the project is next to residences it should be less commercial, not more, there is no indication that Cumberland Farms is trying to minimize these impacts to the community, in fact it seems they are trying to maximize everything, maximize their signs, maximize their store, maximize the number of pumps, how does that help our community, how does that really fit in harmony with the small business that are on that street? Brighter signs, 24 hour operation again, maximum, no rest for the community. Though our current zoning by-laws which so the intent to provide a suitable buffer, privacy and distance between a gas service station and a residential use, particularly one involving children, under the by-law, um, it also proposes restrictions, when there is a residential area in general and under by-law 4.2.11a which is subject to footnote 7 a service station must be at least 50' away from a residential district boundary, half of this lot is R-1 how is that 50' away? It's still labeled R-1, unless I missed something with the change in that. It also requests that it's 200' away from the entrance or exit of a Childs home. I have 2 children, we're within that 200' border, there is no way to change that. And that is direct from your by-law. There

is also a note that there should be a solid wall of tight evergreen or hedge no less than 6' which be erected and maintained that provides some sort of barrier; it shows intent for the need to maximize the privacy to my family. I can tell you what is proposed in this plan does not do that. There is nothing in place to shield my children or my family or my home from that activity of the parking the café from two of the pump bays, four pumps, there is nothing there and there are few plants there that stop at the edge of the building. What is to prevent anyone sitting in that parking lot to be watching my children as they play on the driveway, to be looking in to windows of my bedrooms of my home, my family room? Nothing, nothing, there is not a single plant, not a one, anyone could be sitting there, let alone, my children can see whatever behavior is happening in that parking lot or people sitting in that café. There is no noise barrier, the cars idling, adding pollution to the air my children will breathe in while they're playing in my front yard. There is also the added construction impacts, of needing to level that rock ledge, there is a giant rock (INAUDIBLE), blasting at that sure to get cracks in my foundation from that. Um, the lighting is a huge impact to my home, without that barrier, and even probably with that barrier, um, that, now that they've moved the parking to the other side, I'm now subject to 6 unshielded lights, both from the café, as well as what is lighting the parking lot. In addition to the lights from 2 bays, and the canopy signs, all without any sort of obstruction (INAUDIBLE). It's also important to note, that the lighting that they are using has at a minimum, um, a Kelvin reading of 4000. The reason that is important is the AMA who, just this past month, the American Medical Association, has released a statement about changing to the LED lights, and expressing great concern for anything that is over 3000 Kelvin, because of the (INAUDIBLE), and that how it impacts circadian rhythms, sleep patterns and general health impacts to humans, all of these lights are above that threshold so that adds to the impact, and negative impact on health (INAUDIBLE) to my family, which again supports that this does not fit in this (INAUDIBLE). I see no plan from them to try and limit that exposure. The other added piece, and certainly I'll present this to conservation, is that when you have lights over 3000 um, Kelvin, it impacts the bird migration so certainly all the animals in the wetlands will be affected by this all the time lights that are going to be happening 24 hours a day. So certainly there are many things to look at further, um my (INAUDIBLE) impact would be to try and lesson the impacts to the community, I would suggest some sort of change to the barriers to try and improve the privacy to my family, to limit the hours, um, to create any sort of barrier to this project, um certainly there are traffic aspects that I can address with planning tomorrow, as well as the concerns for conservation you referenced our petition, and um certainly we do stand behind all what is in that petition, and the 240 people that have signed it most of whom ARE actually um, maybe not direct abutters as you were mentioning are 4 people within that 300' radius but they are people of the community both on Taunton, Pleasant and all throughout Banna Estates, who are deeply impacted by this, um and we urge you to really scrutinize it closely,

Ch. Ross: Thank you, anyone else who wishes to speak in opposition, sir with the glasses and your hand up? And would you raise your right hand please, do you swear or affirm that the testimony you are about to give will be truth?

Resident: Yes I do,

Ch. Ross: Would you speak up and state your name and address for the record?

Resident: I live at 148 Pleasant Street, just around the corner from where they're talking about this magnitude of business going in. And I've been there for 55 years, when Banna Estates went in

Ch. Ross: Your name, please?

Resident: Oh, I'm sorry,

M. Rufful: 148 Pleasant Street, Seekonk. And when Banna Estates was proposed there could not be any egress on to Taunton Avenue, from that (INAUDIBLE) that's why they had to make Evelyn where they did, because that would be a very bad traffic hazard. A business of this magnitude on that corner, that's not, that's it would be worse than Arcade Avenue, is right now. Arcade Avenue has three gas stations there; we don't need another gas station a quarter of a mile up the street. And it would present a real hazard to the people that live in the Estate and back in Banna Estate, I'm sure that those people don't want a gas station at the entrance of their properties, that's not going to be advantageous to anybody and it's at a spot on Taunton Avenue that is already a hazard because the hill comes from both sides, and you cannot see over that hill, and there's been several accidents and things happen there. Even the Dunkin Donuts went in, they have to put a sign that there would be no left turn coming on Taunton Avenue, because you cannot see over that hill, but people take that left turn sometimes, they do. But because of those reasons, that's not an intersection that can handle a magnitude of business like that, absolutely not and it's a more of a residential area than it is, I know it's highway business, or it's another, highway business and there's another type of business, but it cannot handle it. And tanks, and I'm sure they would like to have some access from Evelyn Way, going into the back of their property, when they get it, if they get it. And it's also water, there's water, I don't know what you call it, the but there's drainage there that you cannot take away, that has to stay, no matter what, and they're talking about 3 almost over 3.5 acres of land they are going to take up, and it's just not, advisable not doable, absolutely not, it's not, it's a residential area on both sides of the street, it would become an intersection that would be so hazardous it's bad enough when people leave Arcade Avenue red light coming west once that light changes and you want to egress, you want to get out of Pleasant, you've got to wait for that line sometimes, three, four, five minutes, till that line all goes by and that light stops the traffic again. It's not a feasible thing to go in there. I didn't prepare any notes, but I'm going to prepare and send a letter to the planning board, and to the you know the selectmen, everybody, this should not be happening in that area, it can't handle it, it just can't handle it, and that's what I have to say about it, I didn't any notes,

Ch. Ross: Quite alright

M. Rufful: Ok,

Ch. Ross: Appreciate your comments, sir.

M. Rufful: For now, I'm going to write a couple of letters to people who should receive them

Ch. Ross: Okay. Thank you very much. Sir, front row? Would you
Resident: My name is Marvin Hartnett 37 Winthrop St.
Ch. Ross: Hold on, your last name again?
Resident: H-A-R-T-N-E-T-T
Ch. Ross: Ok, 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?
M. Harnett: Yes
Ch. Ross: Okay, go right ahead sir.
M. Hartnett: First of all, I am here for two purposes, one is kind of like an amicus curiae friend of the court, I have worked with Cumberland Farms since 1950 when I was the State's district traffic engineer, worked for 32 years for Southeastern Massachusetts. I had 81 communities. So for all that period of time I used to have to sign the permits to enter upon state highways including all the development along side it. I have looked at this site personally, the site is of adequate size and adequate location to build a site like a Cumberland Farms, however, there is a roadway problem here, between, addressed here and it certainly should be brought to the attention of the Commonwealth of Massachusetts where I worked for so long I worked there for 45 years. There's about a four to five foot rise in the roadway, immediately in front and it has been there since Rt 44 was constructed because it merges with the, the elevations of the roadway, Pleasant St that crosses on both sides, so it was just left there and raised, but it is time with the traffic volumes and the speed that you have on Rt 44 that the town of Seekonk stepped forward and recommend to the Massachusetts department of public works that they start a safety improvement program at that location. Because sooner or later if there hasn't been a lot of traffic accidents there the sun is your eyes as your driving down Rt 44 every day, I know, I commuted there 32 years, and I saw it, and it is in your eyes, and if effects you as you go up, go over that bump and also the grades of Pleasant St on either side of Rt 44 should be changed brought to grade, and that would be to the benefit of the property owners on both sides of the street. Now in addition to that, we know that traffic in Massachusetts is an environmental problem, requiring access to a state highway requires a filing of an environmental notification form if the results that review, that environmental review requires, then an environmental impact report is necessary. I know that when, probably when the development of all of those houses, just off of Rt 44 was done, probably was no environmental impact form filed or environmental impact report brought forward to be required but certainly, normally in any community, if you're going to build that many houses would almost forced to file in that manner, but that is a past issue, let's leave that one alone. As far as whether or not, first of all I went up to Taunton Monday, and I asked the permit engineer who is currently in charge for permits entering the state highway, if there was a filing by these people as far as a driveway and there hasn't been no filing as of Monday, perhaps, they said something about they dropped off some plans Thursday, perhaps it may have been done since then, normally processing of a permit like that takes 14 days minimum, and could take a lot longer. I just wanted to bring these facts out to you in general.

Ch. Ross: I appreciate your statement, I just want to point out to you that everything that you have said, while it may be accurate and true, none of that is within this boards jurisdiction,

M. Harnett: That may be

Ch. Ross: There is nothing that we, the DPW and the rise in Rt 44 is certainly nothing we can do anything about, curb cuts which they may be making on Rt 44 as you suggest is going to be with the Mass DOT, and I assume, without knowing, that they would get the appropriate permits assuming this project goes forward, but glad to hear from you in any event, sir. This board does not have jurisdiction over a lot the matters that you've referenced. Thank you very much. Someone in the back with their hand up? Yes Ma'am. Raise your right hand, please and you swear and affirm that the testimony you are about to give will be truth?

Resident: I do

Ch. Ross: Would you state your name and address for the record,

K. Pruettt: Kristen Pruettt 21 Evelyn Way, P-R-U-E-T-T.

Ch. Ross: Yes Ma'am

K. Pruettt: Uh, I just had some concerns, I did want to uh, discuss that Banna itself has covenants, I'm not sure if you're aware of that, um, when I bought my house, as closing I was handed a stack of paper that I had to sign, that I was going to abide by these covenants. Um, some of them being as small as not having a clothes line in the back yard, um, for visibility because neighbors don't want to look at that. And now we're talking about, looking out my window and seeing 30' signage, you know on a 24 hour seven days a week. Um, so it's just some of our concerns, and we can on about other issues too. Um but I think that the covenants needs to be looked at too, to see what restrictions that were under, um and we depend on the town, to you know, to hold up their end of the bargain, you know we're abiding by these and you know I moved to Seekonk from East Providence because I want to get away from the city aspect, I wanted to come to a town that was small and I know Rt 6 is all commercialized but I came to this neighborhood hoping that it would be a small quiet community. Um another thing I wanted to bring to the boards attention was that today, at the Cumberland Farms at 12:30pm in Rehoboth on 44 and Winthrop St, they had a malfunction of their suppression system, if you go onto WPRI.com and take a look at that article, um you know I don't think that Cumberland Farms, is that old, I think they had a fairly recent remodel, and there is some you know real concerns looking at that damage that was caused or people going to the hospital um for irritation of breathing and all kinds of things like that, and to think that you know we have a neighborhood right next door, where as that one on 44 doesn't so all of that, if that were to a happen in this location our whole neighborhood would be effected and that's (INAUDIBLE). So I encourage you to take a look at that tonight, that that just happened today.

Ch. Ross: Yeah, okay, one second please, Yes Gary,

G. Sagar: Just as a point of clarification, for you, the covenants for your subdivision are applicable and enforceable only by the owners in that subdivision.

K. Pruettt: Right

G. Sagar: The town has no jurisdiction over any of them

K. Pruett: Okay
G. Sagar: Just so you know that going forward
K. Pruett: Okay. Yup, I'm just saying that when I came into this community I knew what I was getting into and I was ready to abide by all that, and because I wanted the small town, get away from the city and all the commercialization, um
Ch. Ross: Gary is correct, covenants and restrictions
K. Pruett: No, I understand, I just wanted to make everyone aware here
Ch. Ross: Are private
K. Pruett: Of our neighborhood and that we do take it seriously.
Ch. Ross: Okay, Thank you very much.
B. Garrity: What was her address?
Ch. Ross: Ma'am your address?
K. Pruett: 21 Evelyn.
B. Garrity: Thank you
Ch. Ross: Thank you is there anyone else, around the corner? Would you raise your right hand please, and do you swear or affirm that the testimony you are about to give is the truth
Resident: Yes
Ch. Ross: And would you state your name and address for the record please?
R. Bates: Rachel Bates, 227 Pleasant Street so we're across the way. I'm not an abutter, I'm too far away but I imagine a lot of people signed, on the other side of the street because the woman previous said, and I'm sorry to repeat, but it is true that people move this is area to get a more residential feeling and um I understand this is zoning, and if it's zoned business, it's business but it does seem like the side is residential and that's a pretty big change, to have a giant sign, I live in house that's on top of a hill and that's going to be a glaring beacon. I also just wanted, on a different side, talk about traffic, it's hard enough to make a left out there in a car, I'm a bicyclist and I try to get to Slater Park, and crossing that on a bike is taking your life in your hands. Um, so again the other speakers really said everything eloquently, and I don't want to take up your time repeating thing, I highly (INAUDIBLE)
Ch. Ross: Did you say Slater Park?
R. Bates: Yes,
Ch. Ross: In Pawtucket?
R. Bates: Yeah, I bike across go up Pleasant and you go through the bikeway, it's the quickest way.
Ch. Ross: Okay
R. Bates: Thank you
Ch. Ross: Is there anyone else in the audience who wishes to speak? Ma'am, up against the wall. Hi,
Resident: Hi
Ch. Ross: Raise your right hand, please, do you swear or affirm that the testimony you are about to give will be the truth?
Resident: I do
Ch. Ross: Your name and address for the record please?
Resident: My name is Patricia Oliveira, 14 Richard Banna Way.

Ch. Ross: Yes, ma'am

P. Oliveira: So I'm kind of concerned about the safety. Um on Banna since they changed that, my daughter goes to middle school and she's actually going into 7th grade, and it changed the bus stop from Pleasant St to um, Evelyn and Kristen Drive and right know, I am since they actually go further with the Cumberland Farms, I believe that is going to be kind of a busy road, too also. I will request that the bus stop on Richard Banna and um Evelyn Way, because it's going to be kind of busy, and then there's no, actually kids walking with her going up to Richard Banna, cause all the kids right now are small, and she actually walks by herself as of right now I'm picking her up and I'm kind of concerned already for next year. So, if somebody could take a look and do even, like I said it's going to be busy if they end up building that Cumberland Farms, I'm looking for the safety of my children.

Ch. Ross: Understood. Okay, thank you, is there anyone else who wishes to speak? One more time, anyone who wishes to speak in opposition? Hearing none, Mr. Kehoe, do have anything to say? As to anything that you've heard or we have any other comments at all?

M. Kehoe: I think we'll save them for the continuation.

Ch. Ross: Okay, that's fine. Okay. I see a woman coming up, do you wish to speak ma'am?

J. Miller: Sure, I'm Jennifer Miller, the conservation agent, I just want to make a quick announcement, and if anyone is here for conservation meeting we are down the hall.

Ch. Ross: I didn't recognize her, I am so sorry

B. Garrity: I didn't even look up,

G. Sagar: Raise your right hand

J. Miller: Thank you

Ch. Ross: Ok, thank you. Ok

G. Sagar: Can I make a couple of comments? To the petitioners,

Ch. Ross: Yes, Mr. Kehoe, Mr. Sagar has a couple of comments, so you might as well be at the podium so you can here

G. Sagar: Are these revised plans we just got today?

M. Kehoe: that is correct

G. Sagar: So I haven't had a change to look through them, ok.

M. Kehoe: I think those were Thursday, never the less, those are the revised plans.

G. Sagar: Ok, again I haven't gone through them; I just use my old plans for the sign and everything. Is there a landscaping plan, showing detail?

M. Kehoe: There is,

G. Sagar: Attached in these plans?

M. Kehoe: There should be?

C. Farland: I don't think it's part of theirs

M. Kehoe: It's not part of theirs? There is but you may have not gotten that for ZBA, Mr. Farland says

G. Sagar: Actually could you include it, with your next submittal?

M. Kehoe: Sure

G. Sagar: I'd like to see how much buffering and everything that's

M. Kehoe: Correct, absolutely

G. Sagar: And you have your traffic person here too, correct?
M. Kehoe: We do,
G. Sagar: Just one quick question. Good Evening Sir,
M. Lovera: Good Evening,
G. Sagar: Lets take this site in question, as a convenience store without gas pumps convenience store with gas pumps, percentage wise, how much additional traffic is there?
M. Lovera: I do not have that information available with me to provide you with accurate numbers; I would have to go back to my calculations, to determine that exact number
G. Sagar: Okay
Ch. Ross: Do you think, you may have the same answer, would you think that, without gas that would have a significant impact on the level of service?
M. Lovera: I would have to go back,
Ch. Ross: Go back to your calculations
M. Lovera: In order to give you an accurate answer
Ch. Ross: Okay
G. Sagar: So we'll see you in a month?
M. Lovera: Yes
G. Sagar: Okay
Ch. Ross: Anything else? Do I have motion?
G. Sagar: Mr. Chairman, I move that we continue the public hearings, for petitions 2017-27 through 32 to July 10th at 7pm.
Ch. Ross: Do I have a second?
K. Rondeau: Second
Ch. Ross: Do I have any discussion, hearing none, all those in favor of the motion to continue this public hearing to July 10, 2017 at 7pm signify by saying aye, aye, opposed no, ayes have it, gentlemen we will see you on July 10, anyone in the audience, you are also advised this matter is being continued, it is a, it will be a public hearing, so you're all welcome
G. Sagar: And they will not be noticed again, correct?
Ch. Ross: You will not be noticed again, by mail.
K. Rondeau: Can we ask the petitioner if it's okay, if any of the board would like to walk the property or go onto the property is it ok?
M. Kehoe: We certainly will ask, through you Mr. Chair. The petitioner is not the owner,
Ch. Ross: Mr. Banna, the Banna family,
M. Kehoe: We will certainly ask that of the broker or somebody, we'll get back to you tomorrow
Ch. Ross: If someone could contact our secretary
M. Kehoe: We'll contact the secretary
Ch. Ross: Thank you Mr. Kehoe
M. Kehoe: We would have no objection
Ch. Ross: Understood it's not yours to give. I'm going to take it upon myself to ask for a 5 minute recess before we get to the other two matters. We are adjourned for 5 minutes, recessed for 5 minutes, we are not adjourned. Okay, we are back in

session the matter that is up, is 2017-37 Deloras Hoskins, Mr. Carlson you are representing the Owner/petitioner?

P. Carlson: I am Mr. Chairman

Ch. Ross: And you are Ms. Hoskins, I take it?

D. Hoskins: Yes

Ch. Ross: Okay, why don't we do a two-fer, would you both raise your right hands, and do you swear or affirm that the testimony that you are about to give will be the truth in this matter that is pending?

P. Carlson: Yes

D. Hoskins: Yes

Ch. Ross: Good, you have the floor

P. Carlson: Thank you Mr. Chairman, I am representing the applicant, her name is Deloras Hoskins of 18 South Wheaton Avenue, assessors plat 4, lot 12. Mrs. Hoskins is looking to expand her existing three bedroom home with a 36.5' by 12' addition to the rear of the home in order so she can have her mom stay at the house. The addition is for her to keep her mom at the house. The lot itself is a 12,153 lot, the existing zoning district requires or has a requirements an R-1 which is a 14, 400 so this lot is a legal non conforming lot. And the reason we are here before you, is because of that legal non conforming status, however the addition that is proposed still will meet all the dimensional requirements for the R-1 district. That's pretty much it.

Ch. Ross: How about the rear yard setback?

P. Carlson: We actually meet the 25' rear yard setback,

Ch. Ross: Ok, what is the 22.6 that is showing on the plan?

P. Carlson: The 22.6 is the offset to the proposed home to the side yard.

Ch. Ross: I'm looking at it backwards, I'm sorry. Yup, I have the plan, okay. Now you said your mother, is this going to be, for lack of a better term, and in-law?

D. Hoskins: No,

Ch. Ross: No

D. Hoskins: She'll have access to our house; she'll have to come into our doorway, to get into her addition

Ch. Ross: Okay, it's going to be a bedroom and a

D. Hoskins; And a bath

Ch. Ross: And a bath, ok

R. Read: The square where the porch is now is there, you're just going to continue it across?

Ch. Ross: The porch exists

P. Carlson: The porch exists today, that will be taken down as part of the addition

R. Read: I see

Ch. Ross: Questions, anyone? Anything you want to say, ma'am?

D. Hoskins: Um, nope

Ch. Ross: You are not obligated. Any questions at all? Hearing none, do you have anything further?

P. Carlson: No, sir,

Ch. Ross: It's pretty cut and dry. Is there anyone in the audience? Why don't you take a seat and we'll get right back to you. Is there anyone in the audience who wishes to

Speak in favor of this petition? Seeing none, is there anyone who wishes to speak in opposition? Seeing none, and members have any questions or comments?

G. Sagar: Move we close the public hearing.

Ch. Ross: So do I have a second?

K. Rondeau: Second

Ch. Ross: Ok, any discussion on the motion? Hearing none, all those in favor of closing the public hearing signify by saying aye, aye, opposed no. Ayes have it 5-0.

G. Sagar: Move we approve as submitted

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

K. Rondeau: Second

Ch. Ross: Any discussion on the motion, hearing none, all those in favor of approving the petition pending case number 2017-37, signify by saying aye, aye, opposed no, ayes have it. Good Luck

D. Hoskins: Thank you,

P. Carlson: Thank you

Ch. Ross: The last matter is someone here on the Sorge matter? Okay and you are Angela?

A. Sorge: Yes

Ch. Ross: Ok, and you sir, are?

J. Sorge: Jason Sorge

Ch. Ross: Sorge is that how it is pronounced? I apologize. Okay do you both intend to speak? Would you raise your right hand please, and for the record, do you swear or affirm that the testimony on this matter now pending will be the truth?

A. Sorge: Yes

Ch. Ross: And would you state your name and address for the record?

A. Sorge: Angela Sorge, 89 Chestnut Street, Seekonk.

Ch. Ross: Ok, you may proceed as you choose

A. Sorge: We're just looking to put a small above ground pool in our back yard, I thought we had the proper space, but I guess we need a special permit because of our zoning.

Ch. Ross: Okay,

A. Sorge: It is an 18' above ground; it does not have a deck attached to it. It's a removable ladder,

Ch. Ross: Circular?

A. Sorge: Yes it's circular

Ch. Ross: 18' diameter?

A. Sorge: Yup

Ch. Ross: Okay. Alright, is there anything else you want to say?

A. Sorge: That's really all

Ch. Ross: Any members of the board have any questions of Miss Sorge?

G. Sagar: Can I just ask you, who directed you to this, to get a special permit?

A. Sorge: Actually I came in to see, a building permit, because NAMCO had advised us that we needed a permit to erect the pool,

G. Sagar: Building Permit, yup, ok

A. Sorge: and then when I came into the office, one of the ladies, was very very nice, she said do you have enough, does your property meet the requirements, if not, you need to see the zoning board, and when I looked it up, we found it did not

Ch. Ross: Because you don't have enough area.
A. Sorge: Correct
R. Read: What do you mean not enough area?
Ch. Ross: The lot size, she's non-conforming
G. Sagar: The determination from what I'm hearing, was made because it is an undersized lot and whoever made the decision considered an above ground pool a structure. And it's an extension of a pre-existing non conforming use, as the dean of the board, being the senior member, I'm dating myself, I guess. We have never,
Ch. Ross: I don't see a need for it either
G. Sagar: We have never done anything with above ground pools, and in fact the tax assessor doesn't even tax them, because
S. Halajko: It's not permanent
Ch. Ross: It's not permanent. Neal I know you are here. You did not issue a letter of denial on this correct?
N. Abelson: No, because I think, because it was decided last year, the year before, that we didn't want to basically waste peoples time by having to wait for me to do a determination, and go directly to zoning so that's why I directed them, and an above ground pool is considered a structure, if you read what a structure is "anything erected that has location on the ground" is considered a structure, so it requires a permit if it's over 2' deep, so it requires a permit and it has a location on the ground it is a structure. We have done it in the past, I checked with Diana, and it has been done
G. Sagar: Well, I'd like to see it,
N. Abelson: if it was done, Mike Christifolli was here
G. Sagar: I'd like to see
Ch. Ross: Well, I'll tell you my view. It's clearly not a building, that we know, and at most, I think it is an accessory use and that's permitted by right.
N. Abelson: By right, it's not a conforming lot,
Ch. Ross: It's not permanent in nature, you can put it up, take it down, it's not, you can do the same with a shed or garage, I understand, there is permanency to both of those, that doesn't exist with an above-ground pool. I don't have the history with this board; that Gary does. And I take it as your word when you say it's been done in the past, you say you've never seen it Gary. I don't see that this requires any zoning relief.
N. Abelson: The state requires a building permit for it,
Ch. Ross: I understand
N. Abelson: Anything over
Ch. Ross: Anything over what \$500 right?
N. Abelson: It's not the cost of the pool; it's the depth of the pool that constitutes a permit. You look in the IRC and the State building code, any pool under 2' in depth does not require a building permit. Anything over, does. So once it requires a building permit, and if you look at anything erected it doesn't say whether it is permanent or not. It says anything erected it requires location on the ground, is considered a structure in our own definitions.
S. Halajko: Anything over 2'
N. Abelson: Anything over 2' in depth

Ch. Ross: If it's a pool, if it's a pool

N. Abelson: A pool

J. Sorge: So even one of those little rubbers ones you buy from Toys R Us? If it's above 2' you have to have a permit

N. Abelson: That's what the code is, and most of those aren't really that (INAUDIBLE) and in the international building code, they reference 5000 gallons is a quantity where the cutoff point is, and they talk about the 2'

G. Sagar: And I don't question you as the building inspector, permitting above ground pools, I think it is a good safety net, good for electrical and everything, but there is two issues here, there's building and zoning, and I think this is a very dangerous road to go down, and making people. I mean we've got hundreds of pools in this town

Ch. Ross: I don't want to see a parade of above ground pools coming before this board, for purposes of this hearing, and I understand why you didn't issue a letter of determination, because of the time sequence; I'm sorry

N. Abelson: You'll have another one coming to you

B. Garrity: That's in-ground

N. Abelson: No, there's one above- ground too

Ch. Ross: Even though we don't have a letter of determination, I mean the department, in effect denied the permit and sent them here, I'm willing to treat it as a denial, and we will deal with it accordingly however the board chooses, but

N. Abelson: I have a question, are we from now on when we get a zoning determination on all matters? That seems to be the way we're going? You know, Gary talked about that at the last meeting, and talked about maybe not making it necessarily for certain things, but

G. Sagar: Where we had, in the past, where we had a formal

N. Abelson: You had to

G. Sagar: You come in and pay \$35 for your time, and you'd issue a written decision, what these people spoke to you, and you gave them a verbal decision, you've made a determination, the only difference is it's not in writing, and they didn't pay the fee

Ch. Ross: Yeah, I think we should treat it as a letter of determination and denial, for our purposes. Does anyone else have anything else to say on this matter? Nothing?

N. Abelson: I have another question, too, we've had some permits come in where, people want to put the pool in the front setback, it's an above ground pool, but they want it in their front yard,

Ch. Ross: That's different

N. Abelson: And if it's considered a structure even if you look at garage/sheds nothing can go in the front setback, expect a roadside stand

Ch. Ross: I think setbacks are an entirely different matter, just as sheds would be if they are over 200 sq ft.

G. Sagar: May I ask you, we have you septic plans, can you show me where you're going to put the pool?

A. Sorge: Here's our garage, our pool would be right about here?

G. Sagar: Way in the back

J. Sorge: Way in the back, I think it's probably at least

G. Sagar: Behind the garage,

A. Sorge: Our septic is up here, so we didn't want to put any pressure on the septic, obviously it's a better spot

S. Halajko: That's a big thing too; you don't want to be putting it on the septic system.

G. Sagar: Right

A. Sorge: This is far from our septic

S. Halajko: Anybody

Ch. Ross: I see the circle, here that's where it's going to be. Well ok, there's no one, it's obvious, I'll ask anyway, there is no one present, so no one to speak in favor or opposition to this petition, do you have anything further to say, ma'am?

A. Sorge: No, sir

Ch. Ross: Do I have a motion on the public hearing

G. Sagar: Move we close it,

Ch. Ross: Do I have a second?

R. Read: Second

Ch. Ross: Any discussion on this motion to close the public hearing, hearing none, all those in favor of closing the public hearing, signify by saying aye, aye, opposed no, ayes have it 5 to nothing. Do I have a motion on the determination of the building inspector?

G. Sagar: I move we overturn the verbal determination of the building inspector, in this application, and no zoning relief is necessary for this above ground pool

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

S. Halajko: I'll second it

Ch. Ross: Do I have any discussion on the motion to reverse the oral or verbal determination by the building inspector on this petition?

R. Read: I don't know where we're going on this, but we obviously have a serious conflict here.

G. Sagar: That is why I said in this application. It maybe needs to be reviewed further. On this application, the way it's going, there is no issue.

N. Abelson: You don't have to overturn my decision; you can just give them the special permit,

Ch. Ross: That is the road I don't want to go down, giving special permits when there is none necessary.

G. Sagar: Then you set a precedent,

N. Abelson: That is your interpretation.

Ch. Ross: Well, yeah

N. Abelson: If this comes again, I'm going to send it back to you. Because it is considered a structure, according to our definitions, so it's like what do I do with it?

Ch. Ross: Yup

N. Abelson: I can't give them permits; we haven't done that in the past

R. Read: Now has that definition changed? Re-written?

N. Abelson: Look up structure in the zoning by-laws, and it says anything that is erected that requires location on the ground, is a structure, an above ground requires location on the ground. It's a structure.

G. Sagar: And I would ask, aside from this, I would, the secretary, because I know I'm getting old and forgetful, to do some research to see if you can find, because I have no memory of ever giving a special permit for an above-ground

N. Abelson: It could have been variance though, for setbacks.
G. Sagar: That's even bigger,
N. Abelson: Roger just said that the setbacks are important to the pool, and to not put it in your front yard. A special permit is less
G. Sagar: You're right
N. Abelson: So if you're going to support a variance for a pool, you should support this
G. Sagar: I'd like to see where a variance was issued for a pool
N. Abelson: I talked to Diana about it, and she said that Mike Chrisafolli and Mary both did, send it to zoning. I don't know if it was for a variance or special permit.
G. Sagar: I think in this application, clearly they don't need a special permit. And every body's interest would be served to overturn the building inspector.
Ch. Ross: Ok, we do have pending motion, it was seconded for purposes of discussion, anyone have anything further?
R. Read: No matter how we vote on this, it is not going to affect a decision for the applicants,
G. Sagar: How do you mean?
Ch. Ross: Yeah, I know what Bob is saying.
R. Read: The poor applicants are in the middle of it
G. Sagar: You're right.
Ch. Ross: If there is no further discussion,
K. Rondeau: I don't know if we need to go down a new road tonight, my thought I think we have seen one or two of these before, and it really had, one really had to do with setback and one had to do with the undersized lot, otherwise the other in-ground pools, I think we just have to apply for a building permit,
G. Sagar: In-ground or above-ground
K. Rondeau: Both
Ch. Ross: In-ground I can see,
K. Rondeau: I think, as long as they met all the approvals, and everything else, the size and where it's going to go. There hasn't been too many pools that have been in front of us lately. So I think that maybe the best way to do it, seeing as the applicants are here tonight. They're looking for a special permit, tonight, because it is an undersized lot, my inclination would be to approve the special permit, and then have our secretary and the building inspector research past issues/problems
Ch. Ross: Gary has already Bridget to do that
K. Rondeau: So we can have something in front of us, and rather than just change it all tonight. Let's just
G. Sagar; You say change it all, I have no memory of
K. Rondeau: not going to change the path were going,
G. Sagar: In-ground pools will come before us
K. Rondeau: We've had more of those
G. Sagar: Never an above-ground
Ch. Ross: That I can see
B. Garrity: There are several, I'm able to pull up our previous case history and there are variance and special permits, denied and granted going from looks like the 80's to 2014, it just tells me to allow a pool, it doesn't tell me if it's an above ground,

without going further in, it does seem to be a variance granted for an above-ground on Turnstone Lane

K. Rondeau: Side of the house

B. Garrity: This said, variance granted for an above-ground pool. Like I said, without going further, into the decision it doesn't tell me what it was for.

K. Rondeau: There's been a couple of them

B. Garrity: There is some history but it doesn't

Ch. Ross: This is in front of us only on lot size, legal non-conforming lot size. Ok, there is a pending motion any further discussion? I don't want to rush this. There is a pending motion to overturn the oral determination by the building inspector's office as to the necessity for zoning relief. All those in favor, signify by saying aye, aye, all those in opposition to the motion, signify by saying nay,

K. Rondeau: Nay

R. Read: I didn't say anything; I really think we should not even vote on that.

G. Sagar: We have to do something

R. Read: Just go to the,

S. Halajko: Just vote no

Ch. Ross: Just vote no then

R. Read: We are setting a precedent no matter how we make a decision on this

G. Sagar: My motion was in this application,

Ch. Ross: And as you well know, every case stands on its own and no determination on one case is precedent for another. Because the facts are always different. But on this particular application?

R. Read: I vote no.

Ch. Ross: Motion passes, 3-2. You're all set

A. Sorge: Thank you,

R. Read: We didn't vote on relief

Ch. Ross: We didn't have to; they are entitled as a matter of right.

B. Garrity: Do I have to write a decision for that?

Ch. Ross: Yes, one sentence. We have new business, no further public hearings, we have minutes, the agenda said 3, which one didn't make it?

B. Garrity: May 15,

Ch. Ross: We have minutes of the April 10, 2017 and May 1, 2017 minutes before us, are there any changes or revisions? Do I have a motion to accept the minutes of the April 10 minutes as submitted?

S. Halajko: So moved

Ch. Ross: Second?

R. Read: Second

Ch. Ross: All those in favor signify by saying aye, aye, opposed no. Ayes have it. Motion to accept the minutes of the May 1, 2017 zoning board minutes as submitted? Do I have a motion?

K. Rondeau: So moved

Ch. Ross: Second?

R. Read: Second

Ch. Ross: All those in favor signify by saying aye, aye, ayes have it. 5 to nothing, do I have a motion to adjourn?

G. Sagar: I have a couple of
Ch. Ross: couple of?
G. Sagar: Couple of items. On the 10th of July, Bridget, could you put on, it's just going to be a procedural thing; there are no re-appointments this year. Nobody is up
Ch. Ross: Ok
K. Rondeau: I am
G. Sagar: No you're not,
Ch. Ross: Your term is up?
G. Sagar: Not according to the website
K. Rondeau: According to the website, turns out is wrong, and I had that discussion with the Chris Testa, and she apparently checked the records, and I am up this year. I am to appear before the board of Selectmen on June 28,
G. Sagar: Oh, ok, well then I would like to make a motion that the Zoning board issues a letter of support of his reappointment
Ch. Ross: To the board of selectmen?
G. Sagar: Yes
R. Read: If you want I can give you some advice on that, if you go to the selectmen's meeting, don't expect them to even acknowledge the fact you're there, never mind ask you to say something. Because that is what happened to Neal and I last year.
K. Rondeau: I'll sit in the back and be quiet
G. Sagar: One other issue
Ch. Ross: You can draft a letter anyway.
G. Sagar: One other issue I feel very strongly about and I spoke to you about it today, Mr. Chairman, in February there were some zoning by law changes, and I wasn't at the meeting, but one change was made, and this to me people that drove this bus didn't think this through, and that's under section 1.2 under purpose, if you look at our bylaw right now, it reads "The Zoning By-laws are intended to be and interpreted and construed as permissive." Right,
Ch. Ross: Do you have the second paragraph somewhere?
G. Sagar: Section
R. Read: Bottom sentence, just above 1.3
Ch. Ross: Ok and that was changed to prohibitive.
G. Sagar: Well, there was a debate for years, and based on a court case that we had, and it went to the state appeals court,
Ch. Ross: The court of appeals
G. Sagar: The court of appeals said "no Seekonk has a permissive by-law", so the difference in the two, permissive and prohibitive when, you have a permissive, a permissive basically says you can do I don't say whatever, but you can do that which is not allowed, ok, so if says on a certain page that you can't do this and you can't do it. By changing it, by changing that one word from permissive to prohibitive, now it says, unless it's allowed in the book you can't do any of it. Swimming pools are one part, you can raise that issue. There is a whole host of things, in order for me from talking to different planners and title attorneys, and everything, for a by-law to be truly prohibitive, you have to have everything noted in there that can be, and who can ever think of all those particular circumstances? So this one change, the one word from permissive to prohibitive I think has such a huge negative effect

on all the land owners in the town. That by keeping this in effect is a huge disservice, having a permissive bylaw and the way this has worked since the 40's, on the applications when they have to come in, I think it has worked extremely well for the town.

Ch. Ross: I assume that without knowing, that this version of the by-laws were done as a result of the court of appeals decision. Where it actually states it's permissive

G. Sagar: Right

Ch. Ross: Because the court made that determination, and so that was changed. Yeah,

G. Sagar: Now, just to change it I think it is a huge disservice, and I don't think a lot of people really recognize how big of a change it really is.

Ch. Ross: And what kind of burden it's going to put on you.

N. Abelson: You.

Ch. Ross: No, no, you in the first instance, you in the first instance, people are going to be looking for building permits, you're going to be scrutinizing the zoning by-law.

G. Sagar: So I would like to make the recommendation that this board takes a vote and we recommend to the powers that be that it be put back where it was.

Ch. Ross: We can do that, but we're looking at next February, before it can even go in front of

G. Sagar: No, the fall

Ch. Ross: Oh, the fall, the fall meeting

G. Sagar: I just think we should go on record because, and I think you kind of agree with me

Ch. Ross: I do, I do, yup

G. Sagar: And with your experience, working with different by-laws and ordinances and everything, this does put a huge burden on all of the residents

Ch. Ross: It does

G. Sagar: Residential but commercial

Ch. Ross: Now in Rhode Island we have a statute that makes zoning ordinances prohibitive.

G. Sagar: Oh, really

Ch. Ross: But, we're not in Rhode Island

G. Sagar: Right. So if I could make a motion, I mean we

Ch. Ross: I'm on board with that, do we have a second on it, well it's not a motion, we're just talking

G. Sagar: No, I'd like to make a motion that we take a vote and put it in writing, and have the chairman, if you will, sign and forward the letter to the selectmen and the planning board that we feel this is, and you can, I'm sure articulate the letter

Ch. Ross: It's an undue burden,

K. Rondeau: Has the,

G. Sagar: AG?

K. Rondeau: AG, has he adopted the new language yet?

B. Garrity: No, they have until, I think its September. They have 90 days from the submission which was the end of last week, to take action on it.

G. Sagar: But, that was in February

B. Garrity: Oh, excuse me, oh that particular one? Excuse me, that one there was a notification error and we have to post it in Town Hall for two weeks, it has to be published in a newspaper once and a 21 day appeal period starts and provided that there are no appeals, because notification wasn't sent.

G Sagar: It would still have to go through its due diligence and process
B. Garrity: Yes,
G. Sagar: To change it back?
K. Rondeau: I was just wondering if it was
G. Sagar: There is no short way of doing it
K. Rondeau: (INAUDIBLE) time
B. Garrity: No
G. Sagar: It has to go back to town meeting
Ch. Ross: Got to go to town meeting, town meeting has voted
B. Garrity: Yeah, so we are waiting for it to be formally approved, once it's formally approved and once it's formally approved then we can go ahead and change it
G. Sagar: So that would be my motion Mr. Chairman,
Ch. Ross: Yeah, do I have a second on it?
R. Read: I'll second it.
K. Rondeau: Any input from the building inspector, the zoning enforcement officer?
N. Abelson: Doesn't matter to me
Ch. Ross: You don't care?
N. Abelson: No
Ch. Ross: Well, ok, all those in favor in favor of the motion to draft a letter to the board of selectmen and or the planning board, seeking to maintain the current, when I say current as of May 2016 zoning board
G. Sagar: Edition
Ch. Ross: By-law, as to having the by-laws being construed and interpreted as being permissive, signify by saying aye, aye, opposed no, ayes have it 5-0. Who drove that train to change it?
G. Sagar: I think the planning board.
Ch. Ross: Do you know why? Do you know the rational was? Other than increasing petitions to the zoning board? Was there a good reason?
G. Sagar: I don't know
Ch. Ross: Do I have a motion to adjourn?
G. Sagar: So moved
Ch. Ross: Do I have a second?
R. Read: Second
Ch. Ross: All those in favor, signify by saying aye, aye, opposed no.