

**CITY OF TORRINGTON
ZONING BOARD OF APPEALS
MINUTES
July 13, 2009**

Present: David Moraghan, Chairman
Kathleen Perrotti, Vice Chairwoman
James Marinelli, Member
Cynthia Vasko, Member
Karen Falk, Alternate
Ken Edwards, Alternate (Arrived at 7:08 p.m.)
Marc Trivella, Alternate

Not Present: Genevieve Gangi, Member

Also Present: Mike O' Neil, Assistant Zoning Enforcement Officer, Terence S. Monahan, and Breeanna Sullivan, Summer Intern at Planning and Zoning

1. **Call to Order:** Chairman David Moraghan called the meeting to order at 7:00 p.m. in the Sullivan Senior Center, Main Room, 88 East Albert Street, Torrington, CT (southeast corner of East Albert Street and Park Avenue)

2. **Attendance:**

Chairman David Moraghan announced seated this evening will be Board Members Kathleen Perrotti, James Marinelli, Cynthia Gangi, Karen Falk, Ken Edwards and Marc Trivella. Also, present is Assistant Enforcement Officer Mike O' Neil and Terence S. Monahan.

3. **Minutes:**

a. 3/09/09

Mr. Marinelli, noted a correction on Page 3, the motion stated that it is not a financial hardship, which in fact it is a financial hardship. Mrs. Perrotti suggested the removal of the "not".

Mr. Moraghan asked if there were any more comments on the review of the minutes. Then asked for a motion to adopt as amended. Mrs. Perrotti motioned, seconded by Mr. Trivella.

4. **Hearings:**

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Chairman Moraghan read the legal notice which was published in the Republican American Newspaper.

a.

Applicant: Terence S. Monahan
Location: 167/169 East Main Street
Proposal: Appeal from Zoning Enforcement Officer Mike O' Neil's decision in Cease and Desist Order dated May 29, 2009

Chairman Moraghan recognized the presence of lawyer, Mr. Mark Malley, from Thomaston, who represented Mr. Monahan. Chairman Moraghan briefly explained how the meeting will work.

Mr. Mark Malley, stated his name and address, 30 Main Street, Thomaston, for the record. Mr. Malley also described the location of the billboard, the motorcycle shop right next to the Italian bakery, located on 167/169 East Main Street, and on the side of the shop is where the billboard is located.

Mr. Terence Monahan, explains the situation. Mr. Monahan purchased the property in 1998, the property's condition was in bad shape.

Mr. Malley, lawyer, asked Mr. Monahan if it was recently sided, Mr. Monahan answered yes, and in doing the siding they removed the two existing billboards. The remaining pieces of the billboards were discarded in the garage and the garbage. The reason that the property was being sold was because of the break down of partnership or the previous owners. Within their sales pitch, the previous owners explained to Mr. Monahan that there was potential income of that building from two storefronts, three car garage, four apartments, and there were billboards. Mr. Monahan talked with Lamar and Gannet about the billboard space, but they were not interested, they warned Mr. Monahan to check with zoning. Mr. Monahan was told by a person he spoke to at zoning in the summer of 1999, that they were pre-existing and it was acceptable to put up the billboards without a permit.

Mr. Malley asked Mr. Monahan if the signs he was putting up were the same size as the old signs. Mr. Monahan was not sure what the exact measurements of the billboards. Mr. Monahan finishes his statement on his intentions were never to abandon the billboards, but his financial position restricted him from working with the billboards.

Chairman, Mr. Moraghan, asked if there were any questions for Mr. Monahan.

Mrs. Kathleen Perrotti questioned the removal of the billboards prior to his ownership. Mr. Monahan stated that he saw the billboards before his purchase, but they were not up when he did purchase the property.

Mrs. Perrotti, reiterated the question about Mr. Monahan speaking with someone at City

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Hall and asked if it was a problem to put the billboards back up. Mr. Monahan also restated his response.

Mr. James Marinelli, questions that prior to the erecting of this sign Mr. Monahan did not go down to request a permit. Mr. Monahan did not see the need to get a permit. Mr. Marinelli reiterated the zoning regulations and explained them to Mr. Monahan, and his lawyer, Mr. Malley.

Mr. Monahan brought the newly painted Coca Cola sign into the conversation, and questioned if it needed a zoning permit.

Chairman, Mr. Moraghan asked Mr. Monahan if the billboards were up, when he purchased the property in 1998. Mr. Monahan responded "No, they were put up in 2009, that's when the opportunity and the funds were available."

Mr. Marinelli, stated that they are not there to castigate you (Mr. Monahan), we are here to follow the book. Then he followed by asking what the vertical slats of wood up against the side wall were? Mr. Monahan responded with there was two billboards, and I don't want to have to come back here and waste all of our time again. Conversation followed (tape 527-559).

Vice Chairwomen Mrs. Kathleen Perrotti, questioned Mr. Monahan's objections against a zoning permit. Conversation followed (560-640).

Chairman Mr. Moraghan, asked if anyone else had anything else to ask Mr. Monahan and if he had any more comments.

Mr. Malley, Mr. Monahan's lawyer, restated Mr. Monahan's testimony. Then brought up the issue regarding the Coca Cola sign.

Mr. Mike O' Neil, Assistant Zoning Enforcement Officer, stated that the Planning and Zoning Department found no record of any siding being placed on the building. Mr. Monahan said that it was from before his ownership.

Mr. Marinelli asked Mr. O' Neil if there is a statute of limitation of discontinuing the nonconforming use for signs? Mr. O' Neil stated that once the sign or billboard was abandoned, there is no bringing it back without a permit.

Mr. O' Neil made his presentation before the Zoning Board. Mr. O' Neil came prepared with eleven exhibits, which he described (tape 780-978). Mr. O' Neil's position is that the previous owner abandoned the billboards and that there was never a permit issued for the location, in the first place.

Mr. Malley questioned Mr. O' Neil about the dependence of timing that the sign was erected would determine when the permit would be required. Mr. O' Neil responded with the fact that the D.O.T. permits go back to around 1927.

Chairman, David Moraghan, asked if anyone had any questions or comments for Mr. O'

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Neil. Mr. Marinelli asked Mr. O' Neil if the violation for Mr. Monahan is the sign was up without the right amount of permits. Mr. O' Neil answered "Yes." Mr. Marinelli's following question asked about the sign's size, and if it was too large for regulation size. Mr. O' Neil commented that he was never checked because of the lack of permit application, but if he estimated and it is larger than what is allowed. Mr. Marinelli's final question asked for the proof of the pre-existing nonconforming use. Mr. O' Neil stated that he has no numbers about the size, the originals could have been larger than the allowed size.

Vice Chairwomen Kathleen Perrotti questioned, Mr. O' Neil's position, that the previous owner abandoned the billboards. Mr. O' Neil clears it up by using the picture taken in 1991.

Chairman, Mr. Moraghan, asked if there were any other questions for Mr. O' Neil.

Mr. Trivella, asked if there were any restrictions or prevention of use today. Mr. O' Neil explains that it would be a special exception permit application.

Vice Chairwomen, Mrs. Kathleen Perrotti, questioned if anyone remembered what the original sign advertised. No one could recall.

Lawyer for Mr. Monahan, Mr. Malley, testified on behalf of Mr. Monahan.

Chairman, Mr. Moraghan, asked for a motion to close the hearing. Mr. Marinelli motioned to close the hearing, seconded by Vice Chairwomen Mrs. Perrotti. Passed unanimously.

Mr. Marinelli opens the discussion, talking about the three violations that were stated in Mr. O' Neil's cease and desist order and special permits. Mr. Mark Trivella followed with the fact that you can't modify something if it is not there.

Mr. Moraghan asked if there was any further discussion.

Mrs. Perrotti added the fact that the seller told the buyer, is just a selling point. The buyer still has the responsibility to check with zoning. A selling point is different than a legal point.

Mr. Moraghan asked if anyone wished to make a motion.

MOTION by Mrs. Perrotti to uphold the Cease and Desist Order because there isn't anything that changes the points made in Mr. O' Neil's Cease and Desist Order. Mr. Marinelli added bringing up the Torrington Zoning Regulations, section 5.15.12. Mr. Moraghan, restated Mrs. Perrotti's motion to add the date of May 29, 2009, of the Cease and Desist Order. Seconded by Mr. Marinelli. Passed unanimously.

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Ms. Perrotti voted to uphold the Cease and Desist Order.
Mr. Marinelli voted to uphold the Cease and Desist Order.
Ms. Vasko voted to uphold the Cease and Desist Order.
Ms. Falk voted to uphold the Cease and Desist Order.
Mr. Moraghan voted to uphold the Cease and Desist Order.

Mr. Moraghan announced the Cease and Desist Order is upheld.

5. Adjournment:

MOTION by Mrs. Perrotti to adjourn, seconded by Mr. Marinelli, unanimously carried.

Breeanna Sullivan
Planning and Zoning Summer Intern