

**CITY OF TORRINGTON
ZONING BOARD OF APPEALS
MINUTES
October 11, 2011**

Present: David Moraghan, Chair
Kathleen Perrotti, Vice Chair
James Marinelli, Member
Marc Trivella, Alternate
Jenn Healy, Member
Ken Edwards, Alternate

Also Present: Martin Connor, AICP, City Planner
Kimberly Barbieri, Zoning Enforcement Officer

Not Present: Karen Falk, Alternate

1. Call to Order, 7:00 p.m., Torrington City Hall Council Chambers, Room 218, 140 Main Street, Torrington, CT

Chairman David Moraghan called the meeting to order at 7:00 p.m.

2. Roll Call and Announcements:

Chairman David Moraghan announced present and serving on the Board this evening will be Kathleen Perrotti, David Moraghan, Marc Trivella, Jenn Healy and Ken Edwards as the first alternate. Also present is City Planner Martin Connor and Zoning Enforcement Officer Kimberly Barbieri.

3. Minutes for Approval:

a. 6/13/11

MOTION by Ms. Healy to approve the 6/13/11 minutes, seconded by Ms. Perrotti, motion unanimously carried.

4. Public hearing scheduled for Tuesday, October 11, 2011, 7:00 p.m., Torrington City Hall Council Chambers, Room 218, 140 Main Street, Torrington, CT

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| a. | Appellant: | Alphonse W. Milo |
| | Location: | 1758 East Main Street |
| | Date of Action Being Appealed: | Cease and Desist Order dated June 15, 2011 Issued by Kimberly H. Barbieri, ZEO |
| | Action being appealed: | Signage under gasoline canopy not allowed by pumps or islands, Section 5.15.7 F |

Chair David Moraghan read the legal notice which was published in the Republican

American.

MOTION by Mr. Moraghan to open the public hearing, seconded by Mr. Trivella, motion unanimously carried.

Mr. Moraghan explained the process for how the public hearing will be handled, and Mr. Milo did not have any questions.

Mr. Alphonse W. Milo gave Mr. Moraghan a signed copy of the notice given to the adjoining property owner, Tarringford Fire Department.

Mr. Milo began his presentation, this has been an on-going issue for several years now, and it should have been settled fifteen years ago, and he has evidence to support that. He will be presenting evidence this evening that if he should lose this appeal, if he needs to exercise his due process, that evidence can be continued to a higher level. Mr. Milo had copies of all files pertaining to his properties, and in response to questions from the Chairman, Mr. Milo will refer to certain parts of the records photocopies during his presentation. Mr. Milo submitted copies of his 1996 approval for his gas station, and approval for his site plan during that same year, and Mr. Moraghan accepted these documents as an exhibit.

Mr. Milo submitted documents from a signage meeting he had with City officials, and continued his presentation on his interpretation of the City's zoning definitions and submittal of various documents. Mr. Milo stated the City's actions against him are in violation of his free speech rights under the Constitution of the United States. He noted that last month's meeting (September 12, 2011) was canceled without proper notice to him, and Mr. Milo and members of the public came to the City Hall and there was no City Officials at the meeting.

Mr. Milo wanted his large file of photocopies submitted as an exhibit, in case he needs to go to court. Mr. Moraghan stated he would mark as exhibits any documents Mr. Milo presents during his presentation of his appeal, which has been done. The large file of photocopies will not be marked as an exhibit.

Ms. Kimberly Barbieri, Certified Zoning Enforcement Officer appeared before the Commission. On September 12, 2011 early in the day Mr. Milo came to the Land Use Office to see if any new information had come in on his appeal file that he could review prior to the meeting. Mr. Milo was informed that there may be a problem obtaining a quorum to hold the meeting, and that Mr. Milo would be called. Later in the day when it was determined that there would not be a quorum, Ms. Barbieri personally left a message on the phone number that was listed on the application. The following day Mr. Milo came to the Land Use Office and said he did not receive that message, but there was due diligence to leave the proper message on his voice mail with a number that Mr. Milo provided the Land Use Office with.

Ms. Barbieri reviewed her memo dated August 31, 2011 to the Zoning Board of Appeals, the history of the violation, the violations that are being called into question for this particular appeal. Ms. Barbieri reviewed definitions, specifically buildings, structures, marquees. Mr. Milo has had a long standing issue with the Land Use Office on signage for his business.

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Mr. Martin Connor, AICP, Certified Planner, appeared before the Board and concurred with everything that is in Ms. Barbieri's report. Mr. Connor noted the subject property is in area of town with very high traffic and it is important to make sure that we do not add any more visual clutter. The City's sign regulations are as liberal as any sign regulations in the State, and we have worked hard to ensure we are a business friendly community. Letting someone have a free for all under this canopy is a disaster in the making. In speaking with PZ Chairman Richard Calkins, it is his contention that the signage under the canopy is regulated and not considered in the same manner as the signage inside the building.

Discussion among Board members followed regarding definitions, signage near gasoline pumps, etc. Ms. Barbieri noted the City has been working to allow the gasoline/grocery store promotional signage near the pumps, as customers will be looking for that in particular.

Mr. Milo spoke of the signage definitions, and his disagreements of the definitions and the City's interpretation. Mr. Milo presented photographs of other gas stations/businesses in town that he believes are in violation of the City's sign regulations. Mr. Connor noted this is good evidence the City needs our Assistant Zoning Enforcement Officer who was laid off back. Mr. Milo stated his evidence shows his canopy is a building, as evidenced by paperwork signed by former City Planner Dan McGuinness. Mr. Milo said his canopy is also taxed as a building.

Mr. Milo concluded his presentation.

MOTION by Ms. Perrotti to close the public hearing, seconded by Mr. Marinelli, unanimously carried.

The Board discussed signage/building/structure definitions.

Mr. Marinelli indicated he wished to vote on the matter this evening.

MOTION by Mr. Marinelli to up hold the Cease and Desist Order issued by the Zoning Enforcement Officer issued on June 8, 2011 finding the appellant was not in compliance with Section 1.1.5 Subsection 7F, motion seconded by Ms. Perrotti.

Mr. Trivella voted in favor of the motion.

Ms. Perrotti voted in favor of the motion.

Mr. Marinelli voted in favor of the motion.

Ms. Healy voted in favor of the motion.

Mr. Moraghan voted in favor of the motion.

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

Mr. Moraghan noted Ms. Genevieve Gangi has resigned/retired from this Board after twenty years of service. She was very valuable and had a great deal of knowledge and will be sorely missed.

Mr. Connor will ensure this is duly noted and a thank you note will follow and we always send the name tag to the member. Ms. Gangi will be recognized by the Mayor's office as well.

5. Adjournment:

MOTION by Mr. Moraghan to adjourn, seconded by Ms. Perrotti, motion unanimously carried at 8:42 p.m.

Land Use Office
City of Torrington