



Office of
ZONING BOARD OF APPEALS
272 Main Street
Townsend, Massachusetts 01469
Phone: (978)597-1700 x1723 Fax (978)597-1722

William Cadogan, *Chair*
Darlene Sodano, *Vice-Chair*
Julie Johnson, *Clerk*

Anthony Genova, *Member*
Craig Stevens, *Member*

John Giunta, *Associate member*
Kelly Chambers, *Associate member*

MEETING MINUTES
July 25, 2012 at 7:00 p.m.
Room 2

1.0 Preliminaries

- 1.1 Call the meeting to order:** Chairman Cadogan opened the meeting at 7:05pm.
- 1.2 Roll Call:** Present were members Bill Cadogan (BC), Darlene Sodano (DS), Tony Genova (TG), Craig Stevens (CS), and Associate members John Giunta (JG) and Kelly Chambers (KC). Also present was Administrative Assistant Karen Chapman. Absent was member Julie Johnson.
- 1.3 Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting:** none.
- 1.4 Review & approve minutes:** 4/6/11, 5/4/11, 5/25/11, 6/15/11, 6/23/11, 9/21/11, 2/1/12, 6/20/12
TG motioned to approve all of the minutes as written. CS seconded with all voting in favor.

2.0 Hearings/Appointments/Work Sessions:

- 2.1 7:00pm: Public Hearing – Special Permit request 365 Main Street. Owner: Sherman V. Allen. Request to continue gas station operation in Aquifer Protection District.**
BC opened the public hearing at 7:10pm. Dan Paolino (DP), VP of Operations for Sherman V. Allen, was present for the applicant. BC appointed KC as a full voting member for the purposes of this hearing. TG read the legal notice. BC read the mandatory referrals. DP gave summary of application that they would like to reopen the gas station/store. The facility was closed in August 2011 and we have two years before we lose our grandfathering for this use in a residential district. Unfortunately, we have a permit from the Fire Department that only allows the single walled tanks to be valid for one year if the operation is closed. It has almost been a year so we are going to replace the tanks with double walled ones. There is also a question about the two year limit on the Special Permit. BC explains that when there is a new business, the Board issues a two year permit with renewal in case something goes wrong in that time period. It is like a probationary period. JG asks if there will be new monitoring equipment? DP yes we have a third party that checks by dialing in to the monitoring equipment. TG asks if there was a permit originally to run the gas station. DP no, this was a gas station long before there was zoning bylaws. Abutter Mrs. Funaiolo at 321 Main Street asks if the gas station will have the same hours of operation that it had before it closed and if deliveries can be within operating hours? TG states that this can be addressed in the permit.

The Board considered the petition in light of the statutory criteria and Townsend Zoning Bylaw requirements, and found as follows:

Findings of Fact:

1. All mandatory referrals were received and read into the record.
2. One abutter was present.
3. The property lies in the Residential A and Aquifer Protection Overlay Districts.
4. This is a preexisting, non-conforming use; the convenience store operation has been permitted since 1990 and the full-serve gas station was in existence at that time.

5. Per the applicant, double-walled underground gas storage tanks will be installed prior to reopening the business.

In terms of Townsend Zoning Bylaw §145-65(F)(1)(a-g), Special Permit Decision, the Board found as follows:

- a) The site is adequate for the present use;
- b) The site is suitable; it is a grandfathered commercial use in a residential district.
- c) There is no impact on traffic flow or safety;
- d) There is no impact on the neighborhood views and vistas.
- e) Adequate method of sewage disposal, source of water and drainage;
- f) Utilities and other public services are adequate;
- g) Impact on ground and surface water quality and other environmental and natural resource considerations are being improved by installation of double-walled gasoline storage tanks.

DS made a motion that pursuant to §145-65(F) of the Townsend Zoning Bylaw the proposed use will not have adverse effects, which overbalance its beneficial effects on either the neighborhood or the Town in view of the particular characteristics of the site based on the findings of fact. TG seconded the motion and a roll call vote was taken as follows: TG-yes, DS-yes, KC-yes, CS-yes, BC-yes. The motion carried.

DS made a motion that pursuant to §145-18 of the Townsend Zoning Bylaw the proposed use shall not be more detrimental than the existing nonconforming use to the neighborhood. TG seconded the motion with a roll call vote as follows: TG-yes, DS-yes, KC-yes, CS-yes, BC-yes. The motion carried.

DS made a motion to continue the use under the Special Permit issued in 1998 for Sherman V. Allen, Inc. at 324 Main Street pursuant to Townsend Zoning Bylaw §§145-18, 145-40 and 145-65 and the findings of fact with conditions as follows:

1. The hours of operation shall be:
Monday–Friday: 5:00am – 8:00pm
Saturday: 7:00am – 8:00pm
Sunday: 8:00am – 8:00pm
2. A five-foot buffer of trees and bushes shall be maintained along the two side lot lines to protect abutters.
3. In the interest of safety, the facility is to be in compliance with Townsend Zoning Bylaw §145-52, Outdoor Lighting.
4. Due to its location in the Aquifer Protection Overlay District, there shall be no increase in the amount of hazardous materials stored on site.
5. Material delivery hours shall coincide with the hours of operation per state and local requirements.
6. The Zoning Board of Appeals shall be provided with evidence that this special permit has been recorded at the Middlesex South Registry of Deeds.

TG seconded the motion with a roll call vote as follows: TG-yes, DS-yes, KC-yes, CS-yes, BC-yes. The motion carried.

3.0 General Business:

4.0 Correspondence:

4.1 Accountants report for ZBA FY13. Noted.

4.2 Notification from BOS for Appointment of John Giunta. Noted.

4.3 Notification from BOS for Appointment of Kelly Chambers. Noted.

4.4 Copy of Legal Services bill from Kopelman & Paige for Turnpike Village. Noted.

5.0 Schedule

None.

6.0 Adjournment

KC motioned to adjourn at 8:00pm. TG seconded the motion with all voting in favor.

Minutes Taken by:

Karen Chapman

Kelly Chambers

Minutes Respectfully Submitted by:

Karen Chapman

ZBA Administrative Assistant

Documents used during this hearing can be found in the Town Clerk and ZBA files under 324 Main Street.