



# TOWN OF WEST BOYLSTON ZONING BOARD OF APPEALS

127 Hartwell Street \* West Boylston MA 01583 \* [zba@westboylston-ma.gov](mailto:zba@westboylston-ma.gov)

## MEETING MINUTES

August 19, 2013

Chairman: John Benson

Members Present: Francis Cahill (Clerk), Jon Meindersma, Kristina Pedone, and Charles Witkus

Others Present: David Femia (Associate Member) and Secretary Toby Goldstein

Members Absent: Aaron Goodale, III (Associate Member) and Paul Hennessey (Associate Member).

The meeting was called to order at 7:05 p.m. by Mr. Benson.

Mr. Benson proceeded to read to the Board members the names of those members present and those absent. He then proceeded to read aloud the agenda of the meeting.

### **Minutes of 7/22/13 Meeting:**

After review of the minutes by the Board members, during which corrections were suggested, Ms. Pedone moved to approve the minutes as amended. Mr. Cahill seconded. All in favor.

### **Discussion of Petitions for Special Permits (3) and Sign Variance for 114 Worcester Street:**

(These petitions were filed by GC CF New England, LLC, for a proposed Cumberland Farms convenience store/gas station at the above address). Mr. Benson asked Mr. Femia to discuss the issue that concerned him at the May through July Public Hearing for Sunshine Sign Company and Clinton Savings Bank at 306 West Boylston Street, and he mentioned the issue of the bank's proposed roof sign being grandfathered in as compliant with zoning bylaws. He then discussed some concerns regarding the public hearing to take place for 114 Worcester Street. He was concerned that the size of Conference Room One, usually utilized for ZBA meetings, would not be sufficient for the amount of people that would have enough interest in the issue to attend the meeting; even if there would be room for enough seats, those present might not be able to see everything on display, such as plans, photos, and drawings. He mentioned his concerns to Nancy Lucier, and suggested that perhaps the Senior Center room might be used instead.

The Board members then reviewed the petitions, discussing possible issues as they read. Mr. Femia mentioned the issues of parking, fuel, lighting, and overnight operating hours. As an example, he mentioned Honey Farms, opining that this store is not too brightly lit at 2 o'clock in the morning. Ms. Pedone read from page 10 in the petition packet, noting the amount of proposed signs (3 wall signs, 2 standing signs, and 3 canopy signs) and their sizes, and opined that these would be bright signs, emitting a large amount of light. Mr. Femia opined that this should not, however, affect the surrounding home owners. Ms. Pedone continued that they need to determine what the applicants are looking to accomplish; she opined that nothing of this sign magnitude exists in West Boylston, and that the Board needs to ask for more details from the applicants. Mr. Benson agreed that the number and strength of the lighting is an area needing detailed study by the Board. Mr. Femia noted that the new sign bylaw will be in effect when the public hearing takes place. He suggested that the Board should review the filing packet and meet prior to the public hearing. He also discussed speaking with Vincent Vignaly of Planning Board regarding the proposed selling of fuel, and would like to speak with John Scannell of DCR regarding what the Board should find out from the applicants regarding fuel use. Ms. Pedone read from page 4 of the filing, which stated that the storage of the fuel, requiring 2-20,000 gallon underground storage tanks, needs Fire Department approval, and stated that this is separate from what the ZBA needs to do. Mr. Femia questioned how the ZBA can approve the fuel if they do not know what to look for. Ms. Pedone read from the filing what is expected from ZBA, which is the special permit for sale of automobile fuel. Mr. Benson replied that the Fire Department has a special role to determine if the applicants' fuel storage system is in compliance. The permit from ZBA would be for a dispensing facility. Mr. Femia deduced that the applicants need our permission just to be able to sell fuel, but if the Fire Department does not give their approval of the fuel storage, then it can't be done. He questioned how the ZBA can give a permit if they do not know what the applicants plan to do. Mr. Benson replied that the ZBA does not have the authority to decide if the storage tank is in compliance or not. The Building Inspector legally denied permission for it, and instructed the applicant to appeal to ZBA for relief. Unless they request the applicant to go to the Fire Department first, the Fire Department does not have to give an advisory opinion. Mr. Femia stated that he would like to obtain input from other entities that are not legally required to give ZBA advisory opinions. Mr. Cahill opined that there is no point in the applicant continuing with obtaining engineering plans unless they are granted the permits. Mr. Benson summarized, that tonight, the board will raise concerns that will be brought up at the September meeting. The public may want to opine at that time. Abutters may have concerns. Cumberland Farms may have further information for the public. Ms. Pedone read from page 7 in the filing, which stated that, as a condition to ZBA approval, DCR approval is also required. Mr. Femia suggested that DCR may have ideas of what questions should be asked of the applicants by ZBA. The Clerk was

then instructed to ask Nancy Lucier about the availability of possible larger venues for the public hearing, such as the Senior Center room and the Town High School.

Mr. Benson opined that, regarding the number, sizes, and illuminations of the signs, the Board should ask pointed questions of the applicant. Mr. Femia added that Town Clerk Kim Hopewell informed him that the new sign bylaw can be invoked on September 16; he also suggested that perhaps the Board could meet the week before the meeting. Mr. Benson added that there are a lot of concerns as the proposal may comply with the new bylaws, but does not comply with the present ones.

The Board members discussed several other aspects of the applicant's proposals. Mr. Femia asked what the overnight permit consists of. Ms. Pedone mentioned the drawing of (3) sitting tables, each to seat four people, questioning if the applicant is planning a small restaurant at the premises. Mr. Femia brought up the fact that parking spaces will be removed. Mr. Meindersma questioned the adequacy of 20 parking spaces. As an example, he mentioned the fact that Honey Farms has 10 to 11 spaces; it is a smaller store, but he opined that it is difficult to exit the parking lot. Mr. Benson opined that the applicant explained well why the 51 spaces required by the Town bylaws (Section 5.2.B.1.j) would be excessive, the reason being that the 51 spaces would be required for a fast-food establishment with drive-through customer service.

Mr. Meindersma continued, discussing the idea that the applicant is making the assertion that the existing roads can handle additional volume of congested traffic. He opined that safety and convenience are issues for the public. Traffic not entering the parking lot needs to move at normal speed. He expressed concern that northbound traffic on Route 140 could back up behind vehicles turning left into the site. He also asked about the possibility of traffic exiting onto Route 140 being limited to turning south only.

Mr. Femia continued, that another issue is that one entrance is planned for the fuel tanker. (This was discussed at the Town's Project Roundtable, held on April 18).

Ms. Pedone replied, referring to plan CFG 4.0, that there are now 2 entrances on Route 12, and 2 exits. In adding the additional entrance, parking spaces were removed.

In reference to the fuel pumps, Mr. Benson discussed the drive-through bylaw (mentioned previously), where 51 parking spaces could be needed, but that bylaw is intended for drive-through window businesses only. However, with 4 pump stations, zoning bylaw could call for the need for a certain number of parking spaces.

He continued, with reference to site plan CFG 4.0, the distance between the first gas pump and Route 140 is not great; there is a question of whether or not cars can enter the station and immediately get off of Route 140.

The Board then discussed questions that they wanted to address to the applicant prior to the public hearing. One question was, if all 8 signs are to be illuminated 24 hrs./day, 7 days/week, and if so, what would be the wattage? Second, the Board would like pictures of current signage. Another question was about plans for snow storage, and would that involve snow placement up against the fence of Honey Farms?

With regards to room for traffic around the gas pumps, Mr. Femia opined that, if the tanker would fill the pumps on off-hours, it would not create a traffic problem. In response to concerns of the ability to back out, Mr. Benson referred to the site plan, which shows that the space between the end of a parking space and the pump island is 31 feet. Mr. Femia questioned whether or not occupants of both handicapped parking spaces would have enough clearance to leave at the same time. Ms. Pedone pointed out proposed dumpsters near the seating area. Mr. Femia asked Chris Rucho, of the Board of Selectmen, who was present in the audience, if he knew if there was to be diesel fuel as well as regular, and he replied that he thought there will be one pump with diesel fuel.

Mr. Femia then asked the board if the opening in the curb has to be a certain size, according to the bylaws, and Mr. Benson replied that any curb cut on route 140 is under state jurisdiction. The Board then reviewed the entrances and exits of the lot and their present and proposed sizes. Mr. Femia then said that the opening on Route 12 is 35 feet. Ms. Pedone added that they will be reduced to less than 30-foot openings (24.9 and 26). Mr. Rucho opined that larger openings will be needed. Mr. Benson pointed out that the 2 openings on Route 12 will be 15 feet each, and 12 feet each side on Route 140. Ms. Pedone pointed out the no-parking area.

Mr. Femia asked if the board could ask the applicant to bring in a video to demonstrate how the traffic will proceed, including in which directions the traffic will move, where the parking spaces will be located, and the placement of the tanker, islands and traffic flow. He opined that, if the tanker is present during regular business hours, then it would not be able to refuel due to the amount of time that refueling would require. Mr. Benson opined that Cumberland Farms would not want to limit its ability to sell gas by interference of the tanker.

The Board then discussed other questions for the applicant: could they provide a visual aid for traffic flow; will there be a roof ventilator at the back of the building; a traffic plan for backups during busy hours; Mr. Meindersma thought that the character of other businesses in the area should be considered; Mr. Benson opined that there should be a noise abatement plan, if noise is going to be an issue; impact on the surrounding area of lighting; does the applicant have an idea in advance of when the tanker will arrive; can the applicant provide extra plans set up for all attending the public hearing to be able to view; could the applicant enumerate, rather than make references to, attached information; and for the Board to ask Planning Board to give an opinion.

With regards to Mr. Femia's question of the board meeting prior to September 16, Mr. Benson hesitated to schedule another meeting at this time, due to the amount of questions to be answered. Michael Kane of The Banner, who was present in the audience, stated that, according to the Open Meeting Law, the petitions could be discussed prior to the public hearing without being open to public comment, so long as no deliberation takes place.

With no further comments from the Board or those present, Mr. Meindersma moved to adjourn the meeting at 8:52 p.m. Ms. Pedone seconded. All in favor.

Respectfully submitted,

---

Toby S. Goldstein, Secretary

Date Accepted: \_\_\_\_\_ By: \_\_\_\_\_