



TOWN OF WEST BOYLSTON ZONING BOARD OF APPEALS

127 Hartwell Street * West Boylston MA 01583 * zba@westboylston-ma.gov

MEETING MINUTES

September 16, 2013

Chairman: John Benson

Members Present: Jon Meindersma (Vice-Chair), Kristina Pedone, and Charles Witkus

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

Members Absent: Francis Cahill (Clerk), and Aaron Goodale, III (Associate Member). (Mr. Goodale was present in the audience, but did not sit on the board as he is an abutter to the property involved in the public hearing).

The meeting was called to order at 7:25 p.m. by Mr. Benson.

Mr. Benson proceeded to read aloud the names of those members present and those absent. Under Section 6.2A of the Zoning Bylaws, he designated Mr. Femia to replace Mr. Cahill as a full member of the board, so that the record would reflect a quorum present. He then proceeded to read aloud the agenda of the meeting, and the notice of the public hearing for 114 Worcester Street.

Minutes of 8/19/13 Meeting:

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

Public Hearing, 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). The (3) Special Permits were for fuel dispensing facility, for a modification to parking, and to operate during overnight hours. Mr. Benson began to discuss some preliminary matters, which are on record. First, Mr. Benson e-mailed the petitioner on 8/27/13 to answer several questions which were discussed at the 8/19 ZBA meeting (on record). These questions regarded issues from the proposed project including

light emanation, noise, character of the neighborhood, size and number of signs, blueprints of the proposed site, and traffic. He stated that John Smolak (attorney to GC CF, LLC, who was present to represent them) responded to these questions (on record). On 9/11/13, supplemental filings were received by the board (on record). On 9/15, the board received copies of the photometric lighting plan (on record). On, the Planning Board sent a letter outlining their concerns about the project (on record). On 9/15, the petitioner responded with an e-mail (on record), on, a resident's e-mail was forwarded by Town Counsel to Mr. Benson. On 9/14, a letter was received by ZBA by e-mail from Brian Vautour and Jennifer May in opposition to the proposed project.

Mr. Benson then invited the petitioner to come forward and inform the board if there are any documents or issues missing from what was discussed. Mr. Smolak (representing the petitioner, as was mentioned previously), brought several sets of prints and distributed them to the board (all on record), and responded that all issues were addressed. (Also representing were A.J. Barbato from GC CF New England, LLC, Philip Henry from Civil Design Group, Inc., Jason Adams, traffic engineer, and representatives for Cumberland Farms.

First Mr. Smolak provided basic information regarding the site and the proposed project. The site is 39,000 square feet, located in a residential district. To the rear of the property is located a BP gas station and a residence. In business zones, convenience stores are allowed, but otherwise a special permit is required. Proposed is the construction of a convenience store to replace an abandoned residential unit and garage. Four gasoline dispensers are proposed, with an overhead canopy. There would be (2) standing signs, and wall and canopy signs. Mr. Smolak mentioned that, over the past 6 months, the petitioner's representatives have met with Town officials and DCR to discuss the proposed project.

Next, Mr. Benson swore in Philip Henry, project engineer. Mr. Henry then referred to Plan CFG.2. He discussed various aspects of the project on the plan. The site is .09 acres in size, and the structure located there is a single-family home with detached garage. The proposed project is a 4,500 square foot convenience store, with (4) gas dispensing pumps, and parking spaces. There would be (2) 20,000 gallon underground storage tanks for the gasoline. He indicated areas for trash removal and an air tower for vehicles' tires. He also referred to architectural plans A3.1-3.2, which show proposed outdoor seating with fencing, which would be a 6-foot tall, white vinyl fence on the north and south sides of the property; the south side fencing would also have a 2-3-foot retaining wall. Mr. Henry said that there would be new sidewalks on the Route 140 side, (2) access curb cuts for vehicles, and a full access curb cut on the Route 140 side. He indicated that the fuel tanker truck will enter from the right, with fueling taking place on the right side of the tanker. He also discussed the planting of new trees and maintenance of existing ones on the property, along with shrubs. In compliance with CFG4.0, snow storage

would take place on the north and south sides of the site. Mr. Henry also discussed the site lighting, which would include acorn lighting in the seating area outdoors, and flush-mounted LED lights under the canopies; he opined that there would be no light spillage from the LED's. Regarding the lighting, Mr. Benson asked for more specific details, to which Mr. Henry replied that the lighting would be recessed into the canopies and would be low-profile shoebox lighting.

Next, Mr. Smolak introduced Jason Adams, Traffic Engineer; Mr. Benson swore in Mr. Adams. Mr. Adams proceeded to summarize the conclusions of an August, 2013 traffic study of the proposed work area. Focus was on AM and PM traffic. A Trip Generation Analysis was performed to estimate site traffic. It was found that there is high "pass-by traffic" in the area. It is estimated that there is a 63% weekday AM peak, and a 66% PM peak. It is estimated that there would be a new vehicle generation of 35/hour (AM) and 40/hour (PM). Use of all 4 driveways is figured into the study. For capacity analysis, the program "Synchro" was used. At the weekday peak of traffic, traffic at the intersection of Routes 12 and 140 would increase traffic delay by an estimated 1 second/vehicle, where it is estimated that, in the PM, there would be no impact on traffic movement to the intersection. Because it appears that there would be a greater delay of traffic on Route 140, it is suggested that traffic travel north on Route 140, and exit from the property onto Route 12. Mr. Benson then asked Mr. Adams again, if PM vehicles would not decrease the flow of traffic, and Mr. Adams said that there might be a minor delay for left-turning vehicles, he opined perhaps a one-second delay, but basically there would not be a delay.

Mr. Benson then asked Mr. Adams to explain the "Synchro" program and how the engineers were able to arrive at their conclusions. Mr. Adams replied that "Synchro" uses various equations to evaluate traffic. The software analyzes the entire network. The study is done with existing traffic conditions, and the equations simulate traffic volume.

Mr. Benson then asked Mr. Adams about possible effects of the traffic signal located in the area of the property. Mr. Adams replied that vehicles turning left at the traffic signal will be slightly slowed down, but not in any noticeable manner. Mr. Meindersma then referred to the estimated one-second delay of those vehicles, asking if there would be an accumulation of these delays, and how does the computer model account for this? Mr. Adams replied that the average vehicle delay accounts for the slowing down and speeding up of the vehicles. Statistical variance is included in the model's analysis. Mr. Meindersma opined that, due to these delays occurring every weekday, he did not think that the delays average out, rather that they accumulate. Mr. Adams replied that a standard way such as the "Synchro" program is needed to review the situation, and the study finds that the project will not worsen traffic. They opine that customers probably will not visit the site during peak periods if there is a large

amount of traffic. Numbers of vehicles vs. gaps in vehicles indicates that there will not be a noticeable delay in traffic. Mr. Meindersma continued that, in his opinion, there will be an impact on residents and passers-through, and there is a fault in the model if it ignores the accumulation of delays. Mr. Adams replied that the model averages out all delays to give an average vehicle delay. Mr. Benson added that there is a proposed growth rate of 1 % per year, then include traffic from the proposed liquor store at 21 Franklin Street. 2018 is considered a no-build year, with and without the project.

Mr. Femia asked Mr. Adams about the hours of peak traffic used in the study, to which he replied, 7-9 AM and 4-6 PM, in July. Mr. Femia then asked about traffic from Route 12 into the site, and Mr. Adams replied that the driveways on Route 12 were studied.

Mr. Meindersma then asked if the computer model assumes that traffic passes through the intersection? He opined that there would be significant additional volume of traffic because of traffic that does not go through the intersection northbound on Route 12, but it may exit the site and not necessarily continue onto Route 12. Mr. Adams replied that the traffic is not counted in that intersection. Mr. Meindersma then continued, that if the calculations are based on the flow of traffic through the intersection, and their model is based on it, is it possible that the amount of traffic is being underestimated? Mr. Adams replied that the signal is the biggest point of concern for delay. He opined that customers will not go to their business, or similarly, Honey Farms, at times of day difficult for traffic. He added that Cumberland Farms uses nationwide data for the amounts of traffic at their sites.

Mr. Benson then asked about impact on traffic backup within the parking lot at the gas pumps, and would there be backup of traffic caused by vehicles wanting to exit the site onto Route 12? Mr. Adams replied that they analyzed approach at the driveways. Because there are multiple access points, they believe that the customers will utilize the best exit for where they want to proceed, and the vehicles will be distributed evenly. Mr. Benson then asked, first of all, if it has been accounted for the possibility of customers not travelling in a reasonable manner? Also, would the queueing of people trying to exit and enter the site create traffic backup? Mr. Adams responded that vehicles that could be queued have multiple access points, and they do not expect that these vehicles will build up on the roadway. Mr. Witkus then asked if vehicles would have room to turn around, to which Mr. Adams opined that they would. Mr. Benson asked about number of car lengths at the pump islands, to which Mr. Henry replied that there will be protection on the northerly side of the pumps; there would be 36' from that area to the property line, allowing (2) lanes of vehicles, and also there would be a 15' landscaping strip.

Mr. Smolak then discussed the matter of the gas dispensing special permit. Cumberland Farms is aware of the requirements to have underground gasoline storage. They opine that their plans meet or exceed federal requirements. He mentioned that the Fire Department must sign

off on this; the applicants will need to file with DCR for a variance due to the presence of a low yield aquifer; they must also obtain a Flammable Storage license from the Board of Selectmen.

Mr. Smolak next discussed the proposed overnight hours of operation, which he opined adds convenience for the customers.

He then discussed the parking modifications proposed. There are a total of 20 parking spaces proposed. He stated that only 19 are required for retail usage, according to zoning bylaws. He added that, also, primarily customers would make pass-by trips to the establishment; so, based on the type of operation, Mr. Smolak opined that this should be an adequate number of parking spaces.

Ms. Pedone then asked, regarding the passersby statement, what is the amount of time that customers spend typically at the Cumberland Farms. A Cumberland Farms representative opined that 3 ½ to 4 minutes is the average time that people spend there. Ms. Pedone then asked if their other stores have seating, and the representative replied that the seating is for customer convenience, and that the proprietors are not looking for sit-down business.

Mr. Femia then asked if there are handicapped parking spaces. Mr. Henry replied that, for up to 24 parking spaces, 1 handicapped space is sufficient.

Mr. Femia then asked Mr. Henry about the size of the gasoline tanker and how it will enter the property. Mr. Henry replied that the tanker will face west, toward Route 12 and will not cross traffic. Mr. Femia then asked if, when customers are finished at the pumps, if there will be enough room to go past the tanker to exit, and Mr. Henry replied that there would be 24 ft. available. The Cumberland Farms representative who spoke previously added that the tanker would come one time per day. Ms. Pedone asked when it would come, and he replied that they prefer the off-hours, evenings or early AM so as not to interfere with traffic. Mr. Femia added that he visited a Cumberland Farms in Leominster, MA, and was told that their tankers are automated and arrive randomly. The representative replied that the order for fuel is automatically generated, but zoning ordinances are on file with the delivery system.

Mr. Benson then referred to the snow removal area on drawing WB-50. He asked if all the storage areas were separate from driving and parking areas. Mr. Henry replied that, on the site plan, it is indicated that snow amounts greater than 6 ft. in height will be taken off-site. Mr. Benson expressed concern about snow around the traffic in the parking lot. He asked, if there is a heavy winter snowfall, if the applicants would agree that the ZBA has the authority to say that any snow on the drivable area must be carried away, to which Mr. Smolak replied that they would need to truck the snow offsite if it affects traffic flow.

Ms. Pedone asked where the tanker would come from, and Mr. Henry replied that it would come down Route 140. The organization can control the route of the trucks.

Mr. Smolak continued, addressing the subject of the proposed signage. Originally, the applicants proposed (2) standing signs, where Town bylaw only allows (1). At this point, the applicants have proposed to reduce the size from 104 square feet to 57, and the height from 25' to 20', with changeable copy and push-through LED digits, instead of digital, green or red in color. Mr. Smolak explained the difference between digital and LED lighting. The applicants would also match the design of the standing signs with the surrounding area. Mr. Femia asked why there would be a sign on both Routes 140 and 12. Mr. Smolak replied, that, travelling north, the vegetation partially impedes a driver's view of the site. He pointed out also the shape of the lot, which he opines would cause the building to be located far north on the property. Also, the proposed canopy would block the signage on the building. Therefore, the applicants feel that a standing sign in 2 locations is needed.

Mr. Smolak continued to describe the other proposed signs, referring to drawings A3.1 and A3.2. There are proposed (2) wall signs on each end, at each elevation, 27.8 square feet, and one on the entrance of 37.6 square feet. He pointed out that the maximum allowed by bylaws is 30 square feet facing a public way. Therefore, 2 of the wall signs comply. He commented that the applicants are trying to respect the Town bylaws but opined that the bylaws do not account for this type of business.

Mr. Smolak continued that there will be "Cumberland Farms" logos on the canopy on the west and east sides, 11 square feet in size, internally illuminated. The bylaw restricts the size to 8 square feet. However, the applicants are concerned that, if the sign is not visible, it may be a safety issue as customers may not see it and may stop short to turn into the station.

Mr. Femia then asked how bright would be the illumination in the early morning hours; for example, if the station faces someone's bedroom, will the light shine into it? Mr. Smolak replied that perhaps the business could shut off certain lights during certain hours, and suggested that they might be able to work with the ZBA regarding this.

Ms. Pedone then, referring to the lighting plans, commented on "See You Soon" signs that would be placed at the entrance and exits. She asked if they would also be illuminated (there would be 8 of these signs). Mr. Smolak replied that it would be similar to the entrance and exit lighting, as shown on the plans. Mr. Henry added that they would be about 36" tall and 18" wide.

Mr. Benson referred back to the size of the 57 square foot standing signs mentioned earlier. Mr. Smolak replied that they include the gasoline prices.

Ms. Pedone then asked about the televisions at the pumps, which run music and advertisements during the day-would they also run overnight? The Cumberland Farms representative who spoke previously replied that the pumps have display screens in the middle of the pumps. With the small speakers on the front of each, the customer can hear it within a 3-foot radius. If there is a problem with sound, he opined that it can be dealt with. They would utilize satellite music, which can be shut on and off and set for certain hours; this is meant for gas pump use.

Mr. Benson then mentioned a letter received from Planning Board regarding the sign variance (on file). According to the bylaws, the ZBA would have to find that the applicant has significant hardship in order to allow the signage. Mr. Smolak responded to this, saying that the shape of the lot drives the design of the site. Some of the signage would not be visible due to the location of the canopy and vegetation. There might be a safety issue, with customers seeing the signage at the last minute and having to stop short to enter the site, and the applicants might be at a competitive disadvantage. The applicants believe that the proposed signage is consistent with the design of the business, and would be an aesthetic improvement. Mr. Benson asked if they believe there would be financial hardship, and Mr. Smolak replied, if potential customers cannot see the signage, it puts the applicants at a competitive disadvantage. Mr. Smolak then stated that he has concluded the applicants' initial presentation.

Mr. Benson then said that the applicants' representatives would have an opportunity to respond after comments from the public present. He then announced the hearing to be open to public comment if there are no further comments from the board, and asked anyone with comments to come forward to be sworn in.

First to speak was Linda Isgro of 70 Prospect Street. She was sworn in by Mr. Benson. Ms. Isgro informed the audience that she was a ZBA board member for 10 years, and believed that she was the chairperson when the last gas station filing took place with the ZBA. The first issue that she discussed was of the posting being very vague, in her opinion. To explain further, she did not see that the petition described the relief from which bylaw that the petitioner was seeking. She opined that, when the application is received, it should be clearly stated from what the applicant wants relief. She mentioned that the applicant does not seek relief for being less than 1 acre in size. She questioned if the applicant specifically listed what the filings were for. Also, she noted that seated eating is considered a restaurant, and the applicant is requesting 3 businesses on 1 site. She noted that the building dimensions dictate the parking required. She stated that, according to the bylaws, even in a business district, a special permit is required for fuel dispensing. Lighting should be clearly stated on the application. Overnight hours are being requested. Regarding the signage, she opined that hidden agendas are

present. She commented on the amount of lighting and possible noise, which she opined would impact the residents. She mentioned that a home would be demolished in the construction of the business. Further, the use of the lot would be changed from a residence to a business. She also addressed the safety of trucks getting gas and needing to turn around who would need to cross the median in order to do so. Ms. Isgro also found the traffic analysis to be confusing. One example was that it was only conducted weekdays, not taking into account church traffic on Sundays. She opined that the applicants have not produced enough need, burden or hardship to justify waiving many bylaws. She also mentioned the problem of the proposed gas station and the presence of the aquifer mentioned earlier.

Addressing the question of which bylaws the applicants were seeking relief from, Mr. Benson read them, as they were listed in the petition (see pages 2-3, Section IV, "Requested Relief").

Next, Mr. Benson swore in Philip Sewall of Getty Realty, owner of the BP station. Mr. Sewall discussed the problem of a 1" water line that services the BP station, which is on what would be the Cumberland Farms property. Being an old water line, Mr. Sewall expressed concern that the disturbance of the proposed work on the property could disturb water flow to the BP station, and also, how would BP have access to the water line if it needed repair. He was also concerned about people possibly cutting through the BP station in order to avoid the intersection, and also about the signage; he added that the BP station conformed with Town sign bylaws.

Mr. Femia asked Mr. Smolak if he could show the board the water line on their plans? Mr. Henry responded, that there are provisions in the proposal to relocate the water line 5 or 6 feet to the south. Mr. Femia, seeing that the distance would be 6'6" to the property line, asked if that would leave enough room for repairs. Mr. Henry replied that the applicants are making provisions for that, and Mr. Smolak added that they are discussing the issue with the Superintendant of the water department. Mr. Meindersma also added concern about having adequate access in case repairs needed to be done.

Next to speak was Christopher Olson of the Planning Board; he was sworn in by Mr. Benson. Mr. Olson discussed that the Planning Board did meet the previous Wednesday and discussed this application. Planning Board has site plan review for this project. They are dealing with the same issues such as traffic, drainage, and lighting. He mentioned that generally the board hires an independent engineer to help go through the information, and he opined that it may be worthwhile to do so. He also opined that they have not heard really hard evidence of hardship regarding soil, shape or topography. Also, according to the new bylaws' waiver section, this can be waived if the Planning Board believes that it is best for the welfare of the Town; but he is not sure that hardship is indicated here. He also mentioned the signage. According to the new Town sign bylaws, (1) standing sign of 40 square feet is allowed; however, the applicants want

(2), each larger than what is allowed. He added that the other gas stations in the area comply with this bylaw. Mr. Olson then discussed the concern about traffic, and opined that it might be beneficial to have full analysis by an independent contractor of certain situations; for example, on Route 12, 2 entries and exits are proposed, and perhaps having them allow one-way in traffic, and one-way out traffic would work better. Another issue that he mentioned was that of cut-through traffic from Route 140 to Route 12 and vice-versa. Mr. Olson also questioned if there might be queueing of vehicles on-site of people waiting for available gas pumps, and if there would be enough room for vehicles to move in and out of the parking lot. He wondered how delivery trucks for gas and the convenience store would affect the traffic. Finally, he discussed the matter of the bylaws stating that a special permit can be granted if the proposed work is not detrimental to, or has adverse effects for, the Town. Mr. Olson's concern is that Cumberland Farms would be in direct competition with (2) abutting businesses, Honey Farms and BP gas station, Cumberland Farms' success could be detrimental to the existing businesses and there might be tax implications for the Town along with it.

Next, Mr. Benson swore in Deborah Mattison of 395 Prospect Street. She mentioned concerns about the traffic study not being done during the school year, and feels that an independent traffic study is needed.

Mr. Benson next swore in Aaron Goodale, III, of 195 Crescent Street (Mr. Benson told the audience that Mr. Goodale is an associate ZBA member, but as an abutter, is not functioning as a board member). Mr. Goodale referred to Town Map 148 (on file), which has a display showing Worcester Street and the property itself. Mr. Goodale calculated that, in the 728 feet to Franklin Street, there would be 405 feet total of curbcuts, which is greater than 50%; to West Boylston Street, there would be 25% curbcuts. He discussed how difficult it is to turn left out of property that he owns on Worcester Street. He also pointed out how traffic from the BP station, Honey Farms, and then Cumberland Farms would be all in opposing directions, and opined that the situation is an accident waiting to happen. Mr. Goodale also discussed the backup of northbound traffic at busy times of the day, and does not feel that the applicants' traffic study shows this. He also expressed concern for neighbors at times when the traffic backs up. Referring to A.3.1, he opined that a railing present would block condensers, heating, and exhaust, which could possibly flow into people's homes. Also, referring to an insurance office with 2 apartments on the second floor, he expressed concern that lighting from the Cumberland Farms would disturb the tenants' sleep.

Next Mr. Benson swore in Bill Ritter, attorney representing George Tavlis, owner of the Honey Farms property. Mr. Ritter discussed some features of the Honey Farms property, and compared and contrasted them with the proposed Cumberland Farms. He stated that Honey Farms is a 2,300 square foot market. There are no exceptions to the sign bylaws. He opined

that they do not use much lighting, and that the business is small and fits in with the community. He discussed a “master plan” by the Town for the center of West Boylston, where businesses would enhance the area, be of mixed use, artistically compatible, discouraging of fuel suppliers, pedestrian-friendly, be of retail and professional use, and reducing of curbcuts. In his opinion, this proposed establishment does not meet these criteria. It will combine a market, restaurant and gas station, will be open 24 hours/day, and almost be twice the size of Honey Farms, and is attempting to place all of these businesses into one site. Mr. Ritter said that the ZBA is not obligated to grant special permits. He feels that this business does not belong there. He opined that they are not entitled to a sign variance. He suggested that the special permit be denied.

Next, Mr. Benson swore in Norman Menard, of 135 Worcester Street. (He referred to Mr. Goodale’s map, mentioned previously). Mr. Menard had a concern regarding drainage. He opined that, after the property is paved, drainage will flow onto Worcester Street. The road slopes, and he also opined that the drainage would flow into a local brook and into the reservoir. Mr. Menard feels that the public must be careful of the drainage situation, as he mentioned that heavy rain washed out land between himself and his neighbor, and that DCR should be involved.

Brenda Bowman of 18 Crescent Street was next to speak; she was sworn in by Mr. Benson. Ms. Bowman opined that this project would destroy the master plan for the Town, and the beauty of Route 12. She lives 1 ½ blocks from the site. She mentioned concerns with the lighting, and questioned why Cumberland Farms would decide to come into the Town when there are already such businesses located in the area; she opined that they could locate elsewhere.

Mr. Benson next swore in Brian Vautour, of 118 Worcester Street. He discussed several issues that he had with the project. First of all, he discussed the proposed size of the building, which is to be 104 feet by 44 feet. Even with a 6-foot fence, their home can be seen and they can see the back of the building. He is concerned with the noise of deliveries, employees outside, people eating outside, and the refrigeration and air conditioning units. He is concerned with the noise and smell of the dumpster. With less parking spaces, he is concerned that delivery trucks and customers will park in front of his house or on Route 12. The applicants propose to remove trees which are a buffer for lights and sounds on Route 12. He also opined that this would take away the small-town atmosphere of the area.

Diane MacNicol of 129 Pierce Street was next to speak. Mr. Benson swore her in. She mentioned traffic concerns. She said that it is difficult to take a left on Worcester Street. She opined that, even though the applicants did traffic studies, the residents know better the traffic situation and they do not need more traffic in the area. Ms. MacNicol also had concerns with

safety of a 24-hour establishment, with it possibly becoming a “hangout”, and concerns about the light coming from it, and feels that it is not needed there.

Next to speak was Nancy Vautour of 118 Worcester Street; she was sworn in by Mr. Benson. Ms. Vautour discussed a visit to a Cumberland Farms in Leominster, MA to observe the activity there. There were 3 employees, with 3 registers open at all times. There were 20 parking spaces, 3 of which the employees use. She opined that outdoor seating would become a “hangout” and add to the noise. Ms. Vautour mentioned that she lives 20 feet from the site. In Leominster, she talked to abutters, who told her that the noise from the establishment is endless; they complained that the proprietors will not turn down the TV monitors at the gas pumps. They said that delivery trucks and gas tankers come at any time of the day or night. They also complained about the lighting. Ms. Vautour questioned why the applicants need to build right here and not elsewhere, and expressed concerns about property value.

Mr. Benson next swore in Roger Vautour, of 118 Worcester Street. Mr. Vautour referred to page 10 of the petition, where the applicants expressed the thought that financial hardship was involved with the location of the establishment, where, due to the unusual shape of the property, they needed to move the location to the rear of the property. Mr. Vautour opined that perhaps the Cumberland Farms should be located at another site. He suggested perhaps the vacant Wonder Bread lot, a short distance up the road on Route 12. He opined that the applicants’ assertions that there would be no excess noise, light, heat, or odor from the business is disproved by testimony. Mr. Vautour also discussed the fact that numerous businesses surround the proposed Cumberland Farms and they are low impact, causing no problems with the surrounding community. He opined that Cumberland Farms would be one of the busiest businesses, and related what was previously discussed about non-stop activity at locations in surrounding towns. He also mentioned that, at the locations in other towns, delivery trucks had no room to park, and discussed buildup of vehicles at peak hours at these other locations also.

Next, Mr. Benson swore in Vern Johnson, Vice-President of Operations of Honey Farms. He expressed sympathy with the Cumberland Farms representatives, saying that he had been in a similar situation at one time. He then said that the ZBA is not obligated to grant special permits. He felt that the question is if the project would be detrimental to the Town. Mr. Johnson opined that the scope of the project works against it. There are many issues which are not in harmony with the Town’s bylaws. He said that he never saw a project with this many issues to the bylaws. Mr. Johnson discussed impact on traffic, with the increase of traffic and the ingress and egress of traffic on all 4 curbcuts. He mentioned the issue of sign magnitude. He opined that financial hardship has not been proven; other businesses in West Boylston do not have the size of the proposed building, which would be greater than 100 ft. long and 30

feet high, therefore they are not at a disadvantage. He also had issue with the applicants' opinion that the regulations for parking spaces should not apply to them.

After asking for any other public comment (there was none), Mr. Benson asked Mr. Smolak if he had anything else to discuss. Mr. Smolak suggested continuing the public hearing to address the concerns that were mentioned; the applicants needed additional time to respond. Then, referring to Honey Farms and other gas stations in the area, he questioned why they were allowed and mentioned that Honey Farms was originally offered this same property. After discussing with Mr. Smolak how much time he would need, Mr. Benson and Mr. Meindersma calculated that the board would have 90 days to act after the continued public hearing, which would take place in 30 days, and that Mr. Smolak would need to provide the ZBA with a written statement allowing this. Mr. Meindersma then moved to continue the public hearing until the October 28 meeting, subject to receipt from the petitioner in writing that the board is not required to act until 90 days after the continued public hearing. Mr. Femia seconded. All in favor.

The board agreed to hold the public hearing for Viewpoint Sign at 7:00 on October 28, and keep the Cumberland Farms continuation at 7:15.

At 10:24 pm, Mr. Meindersma moved to adjourn the meeting; Ms. Pedone seconded. All in favor.

Respectfully submitted,

Toby S. Goldstein, Secretary

Date Accepted: _____ By: _____

