

**ZONING BOARD OF APPEALS
REGULAR MEETING MINUTES
WEDNESDAY
MAY 16, 2018**

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JAN 29 2020
WESTPORT ZONING
BOARD OF APPEALS

Members present: Roger Menard, Chairman
Gerald Coutinho, Vice Chairman
Peter M. Borden
Constance Gee
Barbara Pontolilo

Chairman Menard called the Zoning Board of Appeals meeting to order at 7:00 p.m. in the Westport Town Hall, 816 Main Road, Westport, MA with the reciting of the Pledge of Allegiance.

Pledge of Allegiance

Chairman's Announcement - Under MGL Chapter 30A, Section 20(f), meeting being recorded.

Members Present: Roger Menard, Peter Borden, Gerald Coutinho, Constance Gee and Barbara Pontolilo

Members Absent: None

Also Present were:

Ralph Souza, Zoning Enforcement Officer
Brian Corey, Jr., 519 American Legion Highway, Westport, MA,
Attorney for the Petitioner
Mr. Chetan Patel, petitioner
Mark Deshaies, Attorney for the abutters (including) Lou Carreiro, Kevin Danis, Kathleen Gonsalves, Kathleen Mayo, Sebastin Ferris, Brenda Keene, Tom Riley, Jeff Levesque, and Jane Owen.

Chairman Menard opened the continued hearing (continued from May 2, 2018) at 7:00 p.m. with the reading of the Public Hearing Notice with regard to the petition of Chetan B. Patel, Trustee of SMP Realty Trust, for an Administrative Appeal request for relief from the Zoning Enforcement Officer regarding signage related to the existing non-conforming use. The property is located at 526 Sanford Rd and is shown on Assessor's Map 23A, Lots 314-316.

Chairman Menard read the letter from the Zoning Enforcement Officer. In that letter, the Zoning Enforcement Officer reviewed a previous Zoning Board of Appeals decision related to signage and deemed that cases of product stacked in the window must be removed and other signs attached to the building and doors must also be removed. Mr. Menard then read a portion of the Board's decision from September 2011. Specifically, the Board's hearing of May 2011 found that the sale of beer and wine at the convenience store located at 526 Sanford Rd is not substantially more detrimental to the neighborhood. The Board's decision of 2011 stipulated that the signage will be no more than what is pre-existing, with no alcohol-related signage in the windows of the establishment with the exception of the road-side sign.

Chairman Menard then mentioned the procedure regarding Administrative Appeals. He described the process for conducting the meeting, including testimony by the applicant, and testimony by any of the abutters. The issue is whether the beer cases stacked in the window showing beer logos and signs on the front of the building advertising beer are in compliance with the Board's decision of 2011.

Attorney Corey, representing Mr. Patel, addressed the Board. He submitted information relative to the appeal. This included several pictures from different time periods showing the signage at the subject convenience store, both prior to and after the Board's decision of 2011. Mr. Corey stated that the signs on the front of the building are temporary and not all are advertising alcohol. The cases of beer and wine stacked in an area of the building which is the back of the cooler and includes a front window, is simply storage area and there was no intention to use that area as specific signage. Attorney Corey noted that, over the years, there have been other non-alcohol related signage such as ATM, coffee, milk. He also noted that there have been no official complaints.

Many of the abutters gave testimony regarding signage and lighting at the convenience store. Most of the abutters stated their objection to displaying alcohol signs. Lou Carreiro provided photographs of the current convenience store clearly showing beer signs and advertising in a window and on the exterior of the store. He also discussed the 2016 approval of beer and wine from the Board of Selectmen.

Attorney Mark Deshaies, representing the abutters, identified that the issue is set forth clearly in the decision of 2011 that

the signage will be no more than what pre-exists, and no alcohol-related signage in the windows of the establishment with the exception of the roadway sign. He stated that it is clear that there are alcohol-related signs, and they are not pre-existing signage.

Chairman Menard read a letter from several of the abutters objecting to the signage.

Several Westport residents expressed their support for the petitioner, stating that the store is always very clean; the clerks and Mr. Patel are pleasant and polite; and the lights are not any brighter than the average vehicle's headlights.

After testimony from Attorney Corey and many of the abutters was concluded, Mr. Coutinho made a motion to close the hearing. Motion was seconded by Ms. Gee and the Board voted unanimously in favor of closing the hearing.

Chairman Menard stated for the audience that closing the hearing meant that no further evidence or statements would be allowed, and the Board would discuss the hearing and make a decision.

Chairman Menard opened the Board discussion by reiterating that since this is an Administrative Appeal, the Board's only issue is to determine if the Zoning Enforcement Officer correctly enforced the Board's decision of September 2011.

The Board discussed the information presented at the hearing. Mr. Coutinho started the discussion by reviewing the pertinent facts presented. He indicated that, based on the evidence provided, there is clearly more signage than in 2011.

Ms. Pontolilo questioned the Zoning Enforcement Officer regarding the interpretation of the 2011 decision. Mr. Souza responded that the Board is considering whether the outside signage and the cases of beer displayed in the window are in violation of the Board's decision of 2011. Chairman Menard added that the Zoning Enforcement officer has performed his appointed job of enforcing what the Board had previously mandated. Ms. Gee agreed that there is clearly more signage for beer and wine and would therefore vote to uphold the Zoning Enforcement Officer's decision.

Chairman Menard noted that since this is an Administrative Appeal, a super majority is required to overturn the Zoning Enforcement Officer's decision.

Chairman Menard made a motion to reject the Administrative Appeal, citing that the Zoning Enforcement Officer correctly administered the Board's decision of 2011. Mr. Coutinho seconded the motion and the Board voted unanimously in favor of rejecting the appeal.

Chairman Menard advised that anyone wishing to appeal the Board's determination should do so within a 20-day appeal period.

The hearing concluded at 8:50 p.m.

Other Miscellaneous Matters

None.

Topics not reasonably anticipated forty-eight (48) hours in advance of the meeting

None.

Motion made by Mr. Coutinho to adjourn the meeting at 8:52 p.m. The motion was seconded by Chairman Menard and the Board voted unanimously in favor.

Adjournment.

Respectfully,



Maria I. Branco, Principal Clerk
to the Zoning Board of Appeals

APPROVED:



Roger Menard, Chairman