



TOWN OF DIGHTON

ZONING BOARD OF APPEALS

Meeting Minutes

March 16, 2016

Members Present:

Peter Caron Kenneth Pacheco
Robert Adams Sr. Greg Logan
Brett Zografos Zachary Caron

Call to Order:

Chairman Peter Caron called the meeting to order at 7:00 P.M. and asked Vice-chairman Kenneth Pacheco to chair tonight's meeting.

New Business:

Case #03-16 1209 Somerset Avenue Signage Variance

Chairman Caron explained this case is being reheard is because when the applicant submitted the application for a sign on Somerset Avenue they submitted something wrong. They applied for a special permit and when they should have applied for a variance. It is legally our responsibility to make sure that it is corrected. What was submitted wrong was the actual application.

Vice-chairman Kenneth Pacheco read the legal notice that was posted in the Taunton Daily Gazette on March 1st and March 8th 2016.

Mr. Pacheco explained that this case had been heard in December as a special permit and they didn't pick up on the error until later. It was voted on and the Board agreed on the size of the sign and what the sign would look like. Because of the error it had to be published in the paper again and the abutters had to be re-notified.

Peter Caron: Since the applicant is not here does the board have anything that they would like to mention before the case is opened up for public input?

Kenn Pach
5-18-16

2016 MAY 23 AM 8:01

RECEIVED

Clerk of the Board Robert Adams Sr. inquired about assigning voting members to this case. He picked the same voting members that were assigned to the special permit # 25-16 that had been withdrawn due to the incorrect filing of the application. **Voting Members**

Robert Adams Sr. Greg Logan Brett Zografos

Greg Logan: brought the Boards attention to the January 20, 2016 minutes to clarify that condition #6 case #25-16 the Board wanted the lights on the sign “not” to be allowed to come on before 7:00 A.M.

Daniel Brodeur, 1226 Somerset Avenue: Asked if the applicant was changing the dimensions of the sign or the set back? He inquired if what had previously been decided was still in place or is this up for a vote?

Kenneth Pacheco: This case is up for a vote. He asked the clerk to read what had previously been approved.

Robert Adams Sr.: The sign will not exceed 33 sq. ft., height is not to exceed 9’feet 6” inches, the pole on the west side of the sign must be a minimum of 6’ feet away from the stonewall, and the vacancy / tenant sign will not be left blank for more than 60 days, The lumens will not exceed 15,000 and the wattage not to exceed 200. The light will be turned off by 9:00 P.M. and not come on before 7:00 A.M.

Kenneth Pacheco gave a brief history of the discussion regarding the size of the sign. He explained that the applicant initially requested a 12’ foot sign. The Board had gone to visit the property and they felt it would be too high too big for the area and they cranked it down. It is going to be 33’ Sq. ft. 9’6” tall, the peak will be lowered, and the sign itself will be lower.

Mr. Brodeur: My concern is the location of the sign. It will obscure the visibility from Center Street. If all the previous conditions are still in place I approve.

James Varley, 1247 Somerset Avenue: stated that he had explained to Don French’s daughter and son-in law what dimensions had previously been discussed and approved for this sign and they are all in agreement that they are in favor. He also mentioned that he had also spoken with Raymond Doherty he is also in agreement.

Peter Caron: Explained that the town's bylaws would have allowed for a much bigger sign than what was approved. They were entitled to a 40 sq. ft. sign. The Board looking at the sign felt that if it was going to be in a residential area and was also close to a major roadway intersection they asked the applicant to lower the height of the sign and also asked them to make the sign smaller. The applicant agreed.

It was moved by Robert Adams Sr., seconded Brett Zografos and VOTED to close the public hearing.

Vote: UNANIMIOUS

It was moved by Greg Logan seconded Robert Adams Sr. and VOTED to approve with the conditions imposed previously in Case No. 25-16, as was read into the record tonight, except with the change to condition #6 to now say the light for the sign will go off at 9:00 P.M. and not come on before 7:00 A.M.

Vote: UNANIMIOUS

Chairman Caron explained to the voting members that the decision will be drafted ASAP and that the secretary will notify them when the decision is in the office and ready to be signed. He requested they come in at their earliest convenience to sign the decision rather than wait until the next scheduled meeting.

Case # 02-16 0 Winthrop Street Special Permit 2 Family Dwelling

Vice-Chairman Kenneth Pacheco read the legal notice posted in the Taunton Daily Gazette March 1st and March 8th. Clerk, Robert Adams Sr. picked voting members **Kenneth Pacheco Robert Adams Sr. Zachary Caron**

Attorney John Zajac representing Dighton Development LLC presented the case. He stated that they are requesting a special permit to construct a two family dwelling in a business zone. He stated that a special permit is required but it is an allowed use. The property is located on Winthrop Street but it is on the corner of a residential subdivision. The lot in question is a large lot with frontage on both Winthrop Street and Fairway Drive that could possibly be (2) two form A lots but there was a problem with getting the land to perc. The frontage that will be used is on Fairway Drive and not

Winthrop Street. The size of the lot and the amount of frontage would not be a burdensome use for the property. It fits within the character of the neighborhood because the structure will front on a residential subdivision even though it is in a business zone. We think it is a reasonable use for the property and is keeping with the character of the neighborhood. The applicant is asking the board to issue a special permit to allow them to construct a (2) two family dwelling on the lot rather than to make us do the things that would that would be necessary to make it (2) single family dwellings.

Kenneth Pacheco: Is this lot is part of a development? You have already been before the Planning Board and this lot was an approved single family lot? Yes.

Discussion was held re the address, 0 Winthrop Street and the problem for the Fire Department with the driveway being on Fairway Drive if the lot is recorded as 0 Winthrop Street.

Atty. Zajac: would it be better for the town to assign another address or to turn the house the other way?

Peter Caron: If this is a form A lot, as part of your sub-division was the frontage approved on Fairway Drive or on Winthrop Street? What you are going to have for an address has to be addressed first.

Joe Tutsch: Could you condition your decision on that and I could deal with the Planning Board after?

Peter Caron: I think it will be the Building Department that you will have to deal with. It would be up to the Building Commissioner to take the frontage off Winthrop Street and assign a new address.

Joe Tutsch: Fairway Drive continues down but there are no other homes that have an address on Fairway Drive it turns into Putters Way. Putters Way is where all the other residences are located.

Robert Adams Sr. What is the actual lot size? 161,000 sq. ft.
3.7 acres with septic & town water.

Joseph Tutsch: Property owner explained that only a small portion of this large lot was able to be perc'd. This commercial property has been on the market for 6 or 7 years without a single interested buyer. That is why we have petitioned the Board for a two family, one owner home to be built.

DISCUSSION: re commercial uses for the property.

Joe Tutsch: I'm not sure at this time if I would like to keep it and rent to somebody or to sell it and allow an owner occupied person to rent to some other person, two family one owner.

Zachary Caron: Did you decide not to build two separate houses because of the frontage?

Joe Tutsch: No, I cannot get the perc. The septic can only be located in that front corner.

Brett Zografos: How far is the house away from the wetlands? Would the wetlands be affected in any way?

Joe Tutsch: No, we have stayed farther away and are more that the required 100' buffer so that we could avoid going to conservation.

DISCUSSION: re: On street and overnight parking would not be allowed, the possible problem selling the house with the backyard being visible from route 44? You haven't been able to sell the property as a commercial lot what will be different as a residential lot? A vacant house could be a problem for the Town.

Mr. Tutsch explained that backyards are going to be fenced. Parking will not be an issue. One plan has a single garage and the second plan offers a two car garage. He offered to double the driveways to make sure there was sufficient parking. He explained that Dighton does not have a lot of rental property and this type of affordable housing will help with that.

Building Commissioner, James Aguiar: This property has adequate frontage on Fairway Drive and Winthrop Street. This can easily be rectified by going back to the Planning Board and changing the street frontage.

Abutters:

Stephanie Torres, 1920 Putters Way: opposed, not consistent with the neighborhood. A multi-family home built on a slab is going to negatively impact the values of the homes in the neighborhood. The other homes in the neighborhood are single family homes that are owner occupied.

The board asked the abutters if they were to move wouldn't they like to have the option to rent their homes?

Craig Torres, 1920 Putters Way: opposed, concerns regarding 2 family home not being owner occupied, no other two family homes in the area, change characteristics of neighborhood, trees being cut down, parking on street, is there a precedence of other two family homes in the area? If this zoning was changed to single family, residential and was owner occupied I would not have an issue with it.

Building Commissioner: Yes, there are other two family homes on Chestnut Street and Winthrop Street as well. It is in character with this neighborhood.

Peter Caron: To clarify that, we are not changing the zoning. The bylaws allow in a residential or business district you are allowed to have a single family home. You do not need to come to the zoning Board. If you want a two family home it is allowed with a special permit. The zoning board doesn't change the zoning it basically says you can have one but it requires a special permit. The zoning board's responsibility is to make sure that it fits or blends in with the neighborhood. We don't try to limit the number we are not changing the zoning of it, it is still zoned commercial. We do it so that we can control it and not just let it be blanketed throughout the community.

Peter Caron: Ken, we need to get the address situation straightened out. The building inspector says the abutters are over 900' feet away from this property. It is your neighborhood but when you consider when you drive out onto route 44 now, there is a gas station and a business across the street. Owner occupied doesn't mean a whole lot. Owner unoccupied doesn't always equal a trashy house.

Tony Almeida, 1950 Putters Way: rental properties usually have a high turn around and another concern is a business being run out of the house?

Peter Caron: If this were to be approved what would you like to see added as a condition? Planting evergreens or adding a fence?

Mr. Almeida: I would like to have time to think about that and discuss at another time.

Randy Nelson, 1940 Putters Way: If this converted from commercial to residential will the zoning change. Will the owner be able to run a business out of one side of the house?

Peter Caron: This property will always be business zoned. They are allowed to put a residential house on a business property and yes they could have a business on one side but they would need to come before the zoning board and apply for special permit and they would be limited to what type of business would be allowed to go there. It would not be anything that would generate a lot of traffic. This house is not a duplex it will be a two family. A duplex has two separate owners and the town does not allow them. A two family home will have only one owner.

Robert Adams Sr.: I have a few questions. You are asking for a two family home and this absolutely looks like a duplex and the other homes in the development have basements.

Peter Caron: We have no say in what the house will look like. The design is completely up to the Building Inspector. We cannot limit or have a condition regarding what the house will look like. They have a right to put it on a slab. It doesn't matter what the house looks like. As the zoning board we cannot get into what a house is going to look like unless we are dealing with a 40B development.

Robert Adams Sr.: Those are your feelings not mine.

Kenneth Pacheco: I have some concerns with it too. If you remember we approved a two family. The house was already there. The people that owned the house wanted to put on an addition for auntie and grandma. The garages are on the side and the addition is above. It looks terrible and grandma and auntie never lived there.

Peter Caron: That was an in-law apartment.

Kenneth Pacheco: It was a two family and it looked terrible. It still looks terrible to this day. I think we have some say into how it looks. If the petitioner is willing to work with us.

Building Commissioner: I think from a building perspective and building logistics two family multi-family homes in particular have moved away from the upper and lower because of fire protection requirements and fire ratings between dwelling units etc. So this would be considered a town house style. That is the way all multi-families are being constructed. Taking the neighbors' concerns into consideration is appropriate but asking the applicant to completely reconfigure what is the norm or industry standard from a building perspective it's just not going to be possible.

Robert Adams Sr.: All I was asking was if he was open too negotiation? I am trying to come up with a compromise here. I know this lot is a buildable lot as a matter of right.

Building Commissioner: The other thing that should be mentioned, you may not be aware of, but at a town meeting I think it was two years ago the town voted and now allows accessory apartments as a matter of right. They could come into my office and apply for a single family home with a 900 sq. ft. accessory apartment and it doesn't require approval by this board at all. That is something he could do as a matter of right. I understand that is not what they are after but that could be built there without approvals or the input of any neighbors or board members.

Brett Zografos: The neighbors are not concerned with what it looks like they are concerned that it is a two family in a one family neighborhood.

Stephanie Torres: it is a rental environment with a community driven neighborhood. We would like it to look nice. It is the concept that it is not in keeping with the character of the neighborhood. It is not in keeping with what is already established in the subdivision and if that is one of the lots in the subdivision, if it is a buildable lot as part of the subdivision it wouldn't be in keeping with that.

Craig Torres: I have an architectural background so I do care what it looks like. The renderings that I have seen it looks like a good design. This is the 10th lot in the development for it not to be owner occupied basically a multi-

family dwelling it is not in keeping with the single family homes of the neighborhood.

Joe Tutsch: If the intent was to build a strip mall there what would be the difference? I could put one there. It is not economically feasible but I could put one. I am planning on building a two family home and making it look nice. We can work that out together.

Stephanie Torres: Why a two family rather than a single family home?

Joe Tutsch: That area is not conducive to building a \$425,000 single family home on route 44.

Greg Logan: This is a 10 parcel development. There are 9 that have been built. This parcel is part of the development. However the planning board dropped the ball where the curb cut is located. It is a formality the planning board will take care of it and relocate the address to Fairway Drive. Do you agree with me on this guys?

Peter Caron: You are going to have to go to the planning board and get the address straightened out. It is up to them to change it. If they don't change it then you will have to go to Mass Highway for a curb cut. The Board would like to take the case under advisement until next month to give you time to get the address straightened out and also to give the members a chance to go by to see the neighborhood and if the abutters concerns are legitimate and does the house belong there as a two family. Those are the reasons we take cases under advisement. It is very seldom that we vote on something the same evening we hear it.

Kenneth Pacheco: My motion was going to be to continue the public hearing until next time so that we can get the answer on the address and if any of the public wants to come back they will know the answer and they will be able to ask questions.

Joe Tutsch: Will a letter from the Planning Board be enough.

Peter Caron: We will speak with the Planning Board.

Greg Logan: Mr. Torres, were you against or opposed?

Craig Torres: I am opposed as it is currently presented.

Randy Nelson: I am undecided. I want to hear more about the conditions.

Stephanie Torres: I am opposed as it is presented

Tony Almeida: I agree with that. I would like to hear more information too.

Peter Caron: What is going to happen is that it will be continued until April 20, 2016. That night we will discuss it you will be able to have more input and it will probably go to a vote. The vote must be unanimous all three voting members have to say yes if one says no it is denied.

It was moved by Kenneth Pacheco seconded Robert Adams Sr. and VOTED to continue the hearing until April 20, 2016 at 7:00 P.M.

Vote: UNAMINIOUS

Solar Farms: Review / Discuss:

Chairman Peter Caron explained that Heidi Swist, Chairman of the Planning Board has asked for a letter from the ZBA to the Planning Board that they, the Planning Board, handle all commercial solar farm applications. Right now the bylaw states that applicants can come to the Planning Board or the Zoning Board to be heard.

DISCUSSION: re would it be all solar farms or just commercial, tax revenue to be gained by the town, the ZBA's involvement with setback requirements and the concerns of the abutters as well as impact on the neighborhoods, justifying work of the ZBA and pay raise for the members as well as the secretary, how the bylaw will be reworded and what the town will vote on at the annual town meeting, and pending 40B applications,

Building Commissioner, James Aguiar Jr.: stated that as he understands it the bylaw was written extremely vague as to who hears the case and that is why there is confusion. As he understands it and he hasn't read the final draft of what is going to be presented at Annual Town Meeting. There will still be a process that involves this board for solar farms located in a residential district. If a large scale ground mounted solar comes into this town in a commercial area planning will be the only board hearing it. If that same system is proposed to be in a residential district the zoning board would be another step in the process. Now, the way the bylaw is written they could go to either board. So what the Planning Board is asking is for this

board to relinquish any of the hearings from now until the bylaw is fixed. However he stated that he agrees with Greg Logan and in his professional opinion this Board should have a say with anything located in the residential district. For reasons that we all know. We have heard many people come in here in front of this Board with concerns with solar panels in their neighborhoods. If it were him and he was presented with a request to hear an application he would hear the application's between now and July when the language is cleared up.

To elaborate, in his professional opinion as to why he feels this Board should still hear cases in residential areas. This Board is well honed with hearing the concerns of the people who live in the neighborhoods. That's what you do. You are all sensitive to that, not that the planning board is insensitive to that but that is what you do week in and week out.

Peter Caron: Does anyone want to think about this or would you like to vote now?

Opposed	No	Kenneth Pacheco
	No	Robert Adams Sr
	No	Greg Logan
	No	Peter Caron
	No	Zachary Caron
	No	Brett Zografos

Case # 01-16 2027 County Street Variance decision was signed

Brett Zografos Greg Logan Robert Adams Sr. signed the decision

Approval of Minutes:

It was moved by Kenneth Pacheco, seconded by Robert Adams Sr. and VOTED to approve the regular meeting minutes of January 20, 2016.

All in Favor	Aye
Vote:	UNANIMIOUS

It was moved by Kenneth Pacheco, seconded by Robert Adams Sr. and VOTED to approve the regular meeting minutes of February 17, 2016.

All in Favor	Aye
---------------------	------------

Vote:

UNANIMIOUS

Vice- Chairman Kenneth Pacheco asked Brett Zografos and Rosalind Grassie if the minutes had been posted on the web site yet? Yes, all approved meeting minutes from July 2016 to date have been posted on the web site.

Greg Logan: Explained that the January minutes for case number #03-16 needed to be revised to reflect the Boards condition regarding the lights for the sign. Conditions #6 should read the lights for the sign will “not” come on before 7:00 A.M.

Public Input:

None

Adjournment:

It was moved by Robert Adams Sr., seconded Kenneth Pacheco and VOTED to adjourn the meeting at 9:47 P.M.

Vote:

UNANIMIOUS

Respectfully Submitted
Rosalind Grassie