



TOWN OF SALISBURY

Zoning Board of Appeals Hearing

Colchester Room @ Town Hall, 5 Beach Rd

MEETING MINUTES- PUBLIC HEARING

Hearing Date: July 23, 2019 @ 7:00 pm

Members Present: Susan Pawlisheck (Chairperson), Derek DePetrillo (Secretary), Kevin Henderson, Linda Tremblay, Paul Descoteaux, Drew Dana (Alternate), John Schillizzi (Alternate)

Member (s) Absent: None

Additional Persons Present: Scott Vandewalle, Building **(Inspector)**/Zoning Officer, Attorney Jeffrey Blake, KP Law

(Chair) person Pawlisheck called the meeting to order @ 7:00 pm.

1. Continued Public Hearings

Case No. 19-11 Petition for Relief- Finding (by Special Permit) to allow for the extension or alteration of a pre-existing, non-conforming structure.

Address: 187 Atlantic Ave. **Map 31, Lot 23**

Applicant(s): Michael Suprenant, Northeast Properties & Investments LLC

(Chair) states the applicants have asked for a continuance so this case will not be heard tonight. It will be continued to August 13th.

2. Public Hearing

Case No. 14-13 Petition for Finding/Special Permit (pursuant to Town of Salisbury General Bylaw, Section 214) to allow for the installation of a new 14X48 (2) sided digital billboard. Overall height not to exceed 55'

Address: 74 Main Street **Map 12, Lot 50**

Applicant(s): Clear Channel Outdoor Inc., 89 Maple Street, Stoneham, MA

Remand from the Appeals Court in the case of Clear Channel et al. vs. Susan Pawlisheck, et al. (Zoning Board of Appeals), Appeals Court No. 2017-P-1609 (An appeal pursuant to General Bylaw Chapter 214-12)

(Chair) reopens Case 14-13 in accordance with the Zoning laws. The **(Attorney)** who is representing the applicant approaches the podium.

(Attorney) states he was here (5) years ago and he represents Mr. Pritchard, Clear Channel and Mike Morrello, the Regional President of Clear Channel. **(Attorney)** states he was just informed by Town Counsel that the Town did not send out Notice 40A which is consistent with what is required by law. **(Attorney)** continues that if they go forward tonight, that without this notice being mailed, anyone from the public or an abutter could appeal whatever may happen here tonight. **(Attorney)** questions why, after (5) years, did this happen and who is responsible. He questions why no one would notice this such as Town Counsel, Town Manager, the ZBA. **(Attorney)** asks for someone to tell him why this happened.

(Chair) states that **(Attorney)** is intimating that something is amiss; that the Town did something it should not have done. **(Chair)** states she will address the Attorney's comments. The Town and Zoning Board of Appeals did not believe a notice had to be sent out until she just spoke to Town Counsel. This was not done with malice or forethought. **(Chair)** asks the Attorney to please not drag the Town through anything because you think the Town did something incorrectly. **(Attorney)** states his clients are now here 5 years later and a lot of improprieties have been precipitated against his clients. It took the Appeals Court of Massachusetts to finally figure out what went on here and they ruled that Clear Channel could get their permit. We are now being told by Town Counsel that 40A Notices were never sent. Why should we be forced to come back in 2-3 weeks.

(Attorney Jeffrey Blake), Town Counsel from KP Law approaches the podium and explains there was a possibility that this Case was subject to 40A, Section 11 but it did not absolutely have to be; the case can still go on tonight. **(Attorney Blake)** inquires of the Board if they had ever heard a case remanded from the Court? **(Chair)** responds the Board has not. **(Attorney Blake)** states that because this is a remand hearing; it is not crystal clear if the notice is required. The applicant can still go forward as most of the abutters present seem to know what is happening.

Clear Channel **(Attorney)** again approaches the podium and states that we are now stuck with a procedural problem on whether we should go forward. **(Attorney)** states that a citizen now knows that the notice was not sent out properly and may get an attorney.

(Chair) asks the attorney to speak to the Board and not the audience. **(Attorney)** states he is upset. **(Chair)** states he has to make a decision on whether to proceed tonight or continue and she apologizes for the circumstances. **(Chair)** states there is a room full of abutters here so are you asking for a continuance. **(Attorney)** inquires as to who will be responsible for sending out the notices. **(Inspector)** states the Zoning Board secretary. **(Attorney)** states for the record, the notice is required and has not been sent out; we will have to come back on September 13th. We will wait until the notice is sent out; yes, we are asking for a continuance.

(Charles Takesian, Salisbury Board of Selectman) approaches the podium to state he is appalled at the accusations and that no one knew that on a remand, the notices had to be sent out. He states the applicant should have mailed them out.

(Attorney) states that the applicant is under no obligation to do anything. The applicant is here to pick up our permit. **(Chair)** confirms the Town will get the notices sent out to the abutters and it will be posted as it should be.

Audience Member **Mr. Jack Sanborn, 13 Locust Street** speaks referencing the notices. He states that everyone in the affected zone, on the other side of the highway, doesn't even get them but we are all present. **(Chair)** explains rules on who gets the abutter notices and advises the audience to pay attention and be here on the 13th.

(Mr. DePetrillo) makes a motion to continue Case No. 14-13 74 Main Street to the next meeting on August 13, 2019. **(Ms. Tremblay)** seconds the motion.

VOTES: Ms. Pawlisheck, Mr. Descoteaux and Mr. Henderson vote in favor of the motion. All members express their vote individually and verbally. (5-0). Motion passes.

A. Minutes

May 28, 2019 meeting minutes needed to be approved and then signed by the **(Chair)**.

Mr. Henderson makes a motion to accept the minutes; Mr. DePetrillo seconds. Minutes approved by all Board Members.

B. Correspondence and Other Board Business

None

C. Items Not Reasonably Anticipated by the Chair 48 Hours in Advance of the Meeting

(Mr. Descoteaux) updates the Board on the Elm Street plantings/shrubs. He was met at the location by Joe Serwatka (Town Engineer), Nat Coughlin (YWCA of Newburyport), Lisa Pearson (Salisbury Planning Director) and Michelle Rowden (Conservation Agent).

(Mr. Descoteaux) stated the plans were done by Millennium Engineering and the plans did note what the plantings would be at maturity-down the road; not today, at the present. A discussion took place even before the site visit between the landscapers and YWCA. It was just a lack of communication. All seems to be solved.

D. Adjournment

- The Board reserves the right to consider items on the agenda out of order. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

Motion for adjournment was made by Mr. DePetrillo, Mr. Henderson seconds and approved by a 5-0 vote. Meeting is adjourned at 7:35 pm.

Next Scheduled Public Hearing: August 13, 2019

Respectfully submitted by Teresa Mahoney, Board Secretary and accepted at the September 24, 2019, meeting of the Zoning Board of Appeals.

Accepted as Presented;



Chairperson Susan Pawlischeck

Cc: Town Clerk