



TOWN OF SALISBURY
Zoning Board of Appeals Hearing
Colchester Room @ Town Hall, 5 Beach Rd

MEETING MINUTES- PUBLIC HEARING

Hearing Date: September 10, 2019 @ 7:00 pm

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

Member (s) Absent: Kevin Henderson

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.

(Chair) announces that the applicant for Case 19-20, 4 Patriot Way requested to be heard second and Case 19-19 third.

1. Continued Public Hearings

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) states this is a continued hearing and The Board had asked for information on light pollution from the applicant; information on this subject was received from Ms. Bartlett.

Clear Channel **(Attorney Jason Scopa)** approaches the podium and states he will not go through all the litigation again. He states that at the last meeting he went through all the criteria in the by-law numbered 1-5 in order to get the Special Permit. He states the Board was generally satisfied with meeting the criteria except for Item #2 which is "no negative effect on surrounding properties". In his research, he thought there was a national study on this but he was wrong. Attorney Scopa states there is (1) digital billboard near Deluca Car Wash. This was permitted in 2013. The homes in this area are much closer to this sign than the people across the way of the new proposed sign. This data is directly from the Salisbury assessor's records. Since 2013 to now these properties have gone up on both of these roads. Some have gone up \$50K, 75K, 100K, just since 2013. **(Attorney Scopa)** states this is the best example to show you that these do not negatively affect property values. This information is right from the Salisbury Assessor records.

(Attorney Scopa) shows another presentation in which he tested properties on Bartlett Street and Vic Lin Drive. He states that the whole town data from MLS and Banker and Tradesman indicates they did go up town-wide. He states this is the best evidence.

(Attorney Scopa) then shows aerial photographs which show where the sign is and where the homes are across the highway. He states they have done measuring and these homes start at 960 feet away; not the 300 feet that were mentioned the last time. He states the homes are much closer to the sign on 110 and the home's values have gone up consistently. He states that with vegetation, trees, and distance, this sign is not going to negatively affect property values on either side of the highway.

(Attorney Scopa) states he thought the Board was past this issue based on everything revealed during litigation, testimony from town officials and especially the Appeals Court ruling. Mr. Morello, Clear Channel, was here the last time and had never been asked the question to prove to a Board that this will not negatively affect the property value. Mr. Scopa states he went back and looked at the board meeting for 109 Rabbit Road and this subject did not come up at all; he has to make sure his client is not being treated differently. Mr. Scopa then shows a video with Mr. Michael McGlynn, the Mayor of Medford and their relationship with Clear Channel.

(Chair) states the Board has received other information concerning the effect of light pollution on real estate property values from area realtors and also the economic impact of that. **(Chair)** gives the information to the Attorney to read over; who states he was not given a copy.

(Chair) states who will be voting tonight; that being: Linda, Susan, Derek, Paul and Drew.

(Mr. Drew) inquires if there is not one home within 500 feet? What is the closest home to the sign.

(Attorney Scopa) states that the people that spoke from across the highway were not within 300 feet; it is more like 3x that; which shows in the aerals. For those on the same side it may be at 300 feet.

(Mr. Descoteaux) inquires if the Board is only concerning itself with abutters as far as having it impact property values or the people at 900 feet away? **(Town Counsel)** confirms that the bylaw mentions a negative effect on **surrounding** properties.

(Mr. Descoteaux) states the applicant did not study specific homes adjacent to the sign on 110; meaning an actual sale on one of those showing the exact value impact. You have average median values.

(Attorney Scopa) states that is the point of cross referencing both. His study showed the town's own assessment of value and then to back that up they showed the actual sale prices town wide to show they are line with one another. **(Mr. Descoteaux)** states the Board would like to see an actual valuation; an actual sale.

(Attorney Scopa) states that information may be speculative.

(Mr. DePetrillo) discusses a study done in Philadelphia in 2011.

(Attorney Scopa) inquires if this is the John Snyder study and as he understands the study, he came to the conclusion that he could not show one way or another of the impact.

(Chair) states there are similar quotes from local realtors. **(Attorney Scopa)** responds that it looks like they are hand-picked realtors defending the Salisbury residents.

(Mr. DePetrillo) makes a **MOTION to close for discussion**. **(Mr. Descoteaux)** seconds the motion.

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

(Ms. Tremblay) states she is not comfortable with the assessed values; and is not comfortable with using the town wide increase rather than adjacent or surrounding real estate. She states it is hard to prove something theoretically. These are not all solid facts.

(Mr. DePetrillo) makes a motion to deny the Special Permit for 74 Main Street due to the effect on the surrounding communities and negative property values. (Ms. Tremblay) seconds the motion.

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

2. New Public Hearings

Case No. 19-19 Petition for Relief-Special Permit regarding updating a current changeable copy sign with a stationary message to an electronic message board with a stationary message.

Address: 211 Elm Street **Map 9, Lot 47**

Applicant(s): Jeffrey Duford/Duford Associates, Inc. d/b/a The Winner's Circle

Mr. Jeffrey Duford approaches the podium and explains his current sign is a 16 foot high, 7 foot wide road sign that is not changeable. He states he wants to be able to change it inside and it will be the same type of lettering. It will be digital and light up.

(Ms. Tremblay) inquires how bright the sign will be.

(Mr. Duford) explains he will use black lettering with a white or yellow background with the same font size.

(Chair) inquires what the sign size limitation is. (Inspector) states approximately 32-36 square feet. You are allowed to have free standing sign up to 32 square feet and this is 30 square feet.

(Chair) states the totality of the sign meets the definition as it less than 36. It is in conformance for sign size.

(Inspector) states it meets the definition of a shopping center sign, but it is not one.

General discussion takes place between the Zoning Officer and the Board concerning if it is one sign or not. (Inspector) states it is pre-existing non-conforming.

(Mr. DePetrillo) inquires why this is relevant if he is just changing the dynamics or size. He is only changing to electronic.

(Mr. DePetrillo) asks if the Board needs to know about the background color at this point.

(Inspector) states only if the Board wants to put in a constrictor.

(Mr. Duford) states the colors can change; block lettering is shown in the picture. The sign is capable of moving but it is not our intention to have it move.

(Mr. DePetrillo) makes a motion to approve the Special Permit for 211 Elm Street with the condition that the board is a stationary message and not movable. **(Mr. Descoteaux)** seconds the motion.

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

Case No. 19-20 Petition for Relief-Special Permit regarding the addition of an accessory apartment.

Address: 4 Patriot Way **Map 22, Lot 132**

Applicant(s): Maureen Twomey Roux

(Eileen Graf) from Graf Architects approaches the podium and states the owners are in the audience. She explains the current property as being 2.3 acres that has an existing home that is approximately 1600 square feet with (3) bedrooms and 2 stories. (Ms. Graf) refers to plans and shows where the addition would go; to the right of existing building. It would be a single bedroom, open kitchen/dining space. There will be a driveway and 1 parking space. She explains the applicants have already met with the Planning Department and Board of Health has approved the Septic.

Abutter #1: 5 Patriot Way. Ms. Sanders states she fully supports the addition.

Abutter #2: 3 Patriot Way. Stephen Stevulis states he fully supports the project.

(Mr. DePetrillo) makes a motion to approve Accessory Apartment at 4 Patriot Way. **(Mr. Descoteaux)** seconds the motion.

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

Case No. 19-21 Petition for Relief-Special Permit regarding the addition of an accessory apartment.

Address: 551 North End Blvd. **Map 36, Lot 189**

Applicant(s): Maureen C. Mulcahy

(Ms. Mulcahy) approaches the podium and states she is trying to get an occupancy permit to accurately reflect what she has. She gives the Board the background of the apartment such as it has been there for 38 years. She is now in the apartment. At the time the Occupancy Permit was given, it was listed as a single family 13 room property. The property now has 14 rooms; a sun room was added. It was never a rentable unit and won't be in the future.

(Ms. Tremblay) asks why the applicant is now looking for the special permit for the accessory apartment.

(Ms. Mulcahy) explains that she was trying to refinance and the appraiser found that the occupancy permit does not list the accessory apartment. Ms. Mulcahy states she has been paying double for sewerage for the 2nd kitchen.

(Chair) states the lot does not meet the square footage requirements to allow for an accessory apartment; it is undersized. **(Ms. Mulcahy)** states there is a variance that has been in place since 1981 and it is in the Board packet. All the lots around there are 50 by 100. The people who owned it wanted to divide the lots legally and went to zoning and got a variance.

(Chair) states there was never a building permit to make this an accessory apartment.

(Ms. Mulcahy) states the inspector at the time saw the apartment and said she could not rent it and she told him she had no intention. A single family permit was sent to her and she did not know the difference.

(Chair) states that regardless of the owner's intent, by granting this, it would allow them to rent it; especially if the property is sold. **(Chair)** inquires if the Board can put a restriction on it.

(Inspector) states there have been internal discussions on this as the beach was a place where they did not want to create accessory apartments. Now the banks and lawyers are looking for legal options.

(Mr. DePetrillo) inquires as to how the applicant is being taxed. **(Ms. Mulcahy)** responds that she only knows about the water, that she has been paying a double fee.

(Inspector) adds that she has paid (2) betterments and is being taxed on (2) units. The original building permit was for a single family.

(Mr. DePetrillo) states that paperwork from 1981 shows a variance but that is just a variance to build the house.

(Chair) states this creates a circumstance that accessory apartments are supposed to have certain square footage and this does not meet that. The unit size is in compliance but the lot is not.

(Chair) states that the recommendation from the Planning Board is that it meets all other requirements and the board recommends not granting a Special Permit for the accessory.

(Mr. DePetrillo) asks that if this is rejected, what happens. Would it have to be torn down?

(Inspector) replies that the building code kicks in and he will have to enforce zoning. There is a list of conditions on the website; the kitchen and other conditions have to be addressed.

(Ms. Tremblay) inquires if there is any grandfathering since it has been there since 1981. (Inspector) states there are (2) elements; it is 10 years for a structural change and 6 years for a use; only if the use was originally created from a building permit. There is no permit to create this unit.

Abutters: present, but none speak.

(Chair) states the property is not in compliance for an accessory apartment and the recommendation from the Planning Board is to not move forward with this. The applicant has been taxed as (2) family for sewer and betterment but they don't meet the requirement to have an accessory apartment.

(Mr. DePetrillo) makes a motion to deny the Special Permit for an Accessory Apartment at 551 North End Boulevard. (Mr. Descoteaux) seconds the motion.

VOTES: Ms. Pawlisheck and Mr. Dana vote in favor of the motion. Ms. Tremblay votes against the motion. All members express their vote individually and verbally. (4-1). Motion passes. The request for the Special Permit is denied.

A. Minutes

None

B. Correspondence and Other Board Business

None

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

None

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. Descoteaux seconds and approved by a 5-0 vote. Meeting is adjourned at 8:25 pm.

Next Scheduled Public Hearing: September 24, 2019

Respectfully submitted by Teresa Mahoney, Board Secretary and accepted at the December 10, 2019 meeting of the Zoning Board of Appeals.

Accepted as Presented;

A handwritten signature in black ink, reading "Susan M. Pawlisheck". The signature is written in a cursive, flowing style.

Chairperson Susan Pawlisheck

Cc: Town Clerk