

**MINUTES OF BUSINESS MEETING  
HELD BY THE ZONING BOARD OF APPEALS  
LINCOLN CENTER HEARING ROOM  
FEBRUARY 24, 2016**

**MEMBERS PRESENT:** James R. Stevenson, Chair  
Robert Haley, Secretary  
Edward Slegeski

**ALTERNATES PRESENT:** Sandra DeCampos, Sitting  
John Topping, Sitting  
Armando Darna

**ABSENT:** Albert Gionet, Vice Chair  
Kevin Dougan

**ALSO PRESENT:** Renata Bertotti, Senior Planner  
James Davis, Zoning Enforcement Officer  
Mark Pellegrini, Director of Planning & Economic  
Development  
Katie Williford, Administrative Secretary

The Chair opened the Business Meeting at 8:06 p.m.

**CONSIDERATION OF PUBLIC HEARINGS:**

**ADRIAN DENNIS** – application #2016-001 - Request a use variance under Art. II Sec. 11.01 to allow residential use on the first story at 226 Center Street (a.k.a. 226-228 Center Street).

**MOTION:** Mr. Haley moved to approve the use variance. Mr. Topping seconded the motion.

Mr. Topping asked if Mr. Haley wanted to add a condition that the applicant must remove the extra mailboxes or electrical meters. Mr. Stevenson said the third electrical meter could be necessary, as Mr. Davis mentioned during the public hearing. Mr. Haley said he was not concerned about the mailboxes as long as there are only two apartments. Mr. Stevenson said the applicant is not changing the building and there has not been commercial use in the building since the previous owner, so the proposal would have minimal impact if any.

All members voted in favor.

The reasons for the approval were the proposed use is well suited to the neighborhood, which consists mainly of two-family houses, and there will be minimal impact because no changes are proposed to the building and there has not been a commercial use in the building for many years.

**CUMBERLAND FARMS** – application #2016-005 – Request a variance of Art. IV Sec. 13.10.11 to allow pump toppers with a message that will change more than two (2) times in a 24-

hour period at 271 Main Street, 275 Main Street, and 13 Middle Turnpike East (a.k.a. 3 Middle Turnpike East).

**MOTION:** Mr. Topping moved to deny the variance. Mr. Haley seconded the motion and all members voted in favor.

The reason for the denial was lack of hardship. A static LED sign would accomplish the same goal of avoiding the need to manually change the sign toppers.

Mr. Haley noted the stated hardship of changing the prices on the pump toppers manually, and said the applicant could still put up LED pump toppers and have safety for its employees without having the message change every 8 seconds. Mr. Stevenson agreed, saying it was advertising and Cumberland Farms already has this information on a large sign.

**TMI HOSPITALITY** – application #2016-006 – Request a variance of Art. II Sec. 8.06.08 to decrease the lot size of 121 Pavilions Drive to accommodate the proposed hotel on the adjacent parcel, 109 Pavilions Drive.

**MOTION:** Mr. Haley moved to approve the variance. Mr. Slegeski seconded the motion and all members voted in favor.

The hardship is the steep topography of the land.

Mr. Stevenson said he thought the topography of the land was a legitimate hardship, and noted that the Board is not approving the construction of the hotel. He said the request makes sense because of the topography, and they would be disturbing less of the parcel.

**DAVE LOMBARDO** – application #2016-011 - Request a special exception under Art. II Sec. 9.14.02 (e) for outdoor food vending from a truck at 176 Tolland Turnpike.

**MOTION:** Mr. Haley moved to approve the special exception with the condition that the approval would be for one year, until April 22, 2017. Mr. Topping seconded the motion and all members voted in favor.

The reasons for the approval are that the applicant has complied with requests from the Board in the past, approving for only one year will allow the Board to have continued oversight, and the Planning and Zoning Commission is considering new regulations that may impact this type of business.

Mr. Haley said approving the application for only one year would allow the Board to continue to have oversight. Mr. Stevenson noted that it would be one year from the expiration of the last approval, which expires April 22, 2016, and that all other details of the previous approval would remain the same. Mr. Topping said he was concerned that some of the applicant's actions didn't meet the intent of the previous approval and that a one year approval was a good compromise. Mr. Slegeski said the Board owes it to the Town's brick and mortar businesses to make sure all businesses follow the same rules. He was concerned that the applicant commented he didn't know about some of the requirements and he agreed with limiting the approval to one year. Mr.

Haley said the applicant was very cooperative with the Board's previous requests, such as sanitation certificates and registering trailer in town. He said he believed the applicant's failure to get approval to use the shed for storage was an oversight, and felt he deserved another year. Mr. Stevenson agreed that a one-year approval allows the Board to keep oversight, and that the applicant has complied with previous requests. He added that the Planning and Zoning Commission is considering new regulations relating to this type of use.

**DR. MARK STURGIS** – application #2016-012 – Request a variance of Art. IV, Sec. 13.05.07 to allow an off-premise sign on Town-owned land adjacent to 21 Buckland Street (a.k.a. 21-29 Buckland Street)

**MOTION:** Mr. Topping moved to approve the variance. Ms. DeCampos seconded the motion and all members voted in favor.

The hardship is the safety of the drivers and location of the property. Locating the sign further from the street would create unsafe traffic conditions because passing drivers would have difficulty seeing the sign.

Mr. Stevenson said if drivers had to look deep into the lot to find the sign, then they would already be past the driveway and would have to turn around, so the proposed location was a good location for the sign for safety's sake.

#### **ACCEPTANCE OF NEW APPLICATIONS:**

There were no new applications.

#### **OTHER BUSINESS:**

##### Discussion of Proposed Amendments to Zoning Regulations Regarding Vending

Mr. Pellegrini said the staff drafted regulations relating to vending. He said there have been several food trucks that have come before the Zoning Board of Appeals and there was concern that they were something more than a food cart, but less than a brick and mortar establishment. Staff reviewed regulations relating to vending on private property, he said.

Mr. Pellegrini described the types of vending situations in town, including people who set up stands on private property, tenants in shopping centers who set up tents for a couple weeks for sales, and seasonal short-term activities such as Christmas tree or fireworks sales. He said the use of yards and walkways on commercial property for sale and display of merchandise by tenants of those properties would be permitted provided they demonstrate to the Zoning Enforcement Officer that they would not obstruct walkways. Vendors who are not tenants of the property would have to get a vending license from the Police Department, permission from the property owner, and demonstrate they would not cause a problem, and they would not be allowed to stay overnight, Mr. Pellegrini said. There would also be provisions for seasonal sales which would allow those to happen for tenants or vendors, but only for a limited period.

Ms. Bertotti noted that food trucks like Mr. Lombardo's would not be allowed under this draft regulation and would need a use variance because they would not fit into any of the categories Mr. Pellegrini had described. They would be allowed if they left every night, she said. Mr. Pellegrini confirmed that applicants with food trucks like Mr. Lombardo's would have to request variances if they didn't leave every night. He said staff could write a regulation that would allow such establishments, but they had thought that was not what the Board wanted. Mr. Haley said he was in favor of the draft as written because he did not want stores to have to compete with food carts. Mr. Stevenson said he would not approve a use variance for a cart. Mr. Pellegrini said this would be an administrative approval; it would be permitted as of right and the applicant would show Mr. Davis they meet the requirements and would not cause a problem. They would also have to get a vendor's permit. Mr. Davis said the vendor permit involves a review by the Police, Fire, and Health departments. In response to a question from Mr. Stevenson, Ms. Bertotti replied that the regulations could not require vendors' vehicles to be registered in Manchester.

Mr. Pellegrini said he thought vending should be left up to the owners: If the owners approve of it and a vendor follows the rules, they can vend there. Ms. Bertotti said these types of trucks are different from vendors such as hot dog carts, which are easier to move around. Mr. Pellegrini said food trucks can do a lot of business and have become a big deal in bigger cities. He said the goal is to make it easy for people to vend as long as they follow the rules, but also to encourage people to get into brick and mortar establishments. In response to a question from Mr. Stevenson, Mr. Pellegrini confirmed that the draft regulations as written would allow a tenant to use yards and walkways all the time, but staff could add limitations to this. In response to a question from Mr. Topping about Christmas tree sales, Mr. Pellegrini said they can be held for 24 days annually and the proposed amendment would allow other seasonal events in addition to Christmas tree sales. Mr. Topping said that he felt if vendors are using food trucks, their trucks should be declared as personal property for taxes. Mr. Pellegrini replied that this is about land use and activity, while tax concerns are the Assessor's Office's responsibility.

The meeting was adjourned at 8:44 p.m.

I certify these minutes were adopted on the following date:

March 30, 2016

Date

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James Stevenson, Chair

**NOTICE: A DIGITAL RECORDING OF THIS BUSINESS MEETING CAN BE HEARD IN THE PLANNING DEPARTMENT.**

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