

MINUTES
PUBLIC HEARING
ZONING BOARD OF APPEALS
LISBON TOWN HALL
TUESDAY, NOVEMBER 22, 2016
7:00 P.M.

The Zoning Board of Appeals held the following public hearing in the Town Hall, 1 Newent Road, Lisbon, Connecticut beginning at 7:00 PM on Tuesday, November 22, 2016:

1. 7:00 PM - Application 16-03: Savin Gasoline Properties, LLC, 107 River Road, for appeal of a Cease and Desist Order issued by the Zoning Enforcement Officer, with respect to modifications of existing signage. Listed in the Assessor's records as Map/Block 15/32 Vol/Page 93/117.

MEMBERS PRESENT: Steven Beck, Ronald Babbitt, Leo MacDonald, Robert Jencks, Robert Chubka,
Alternates: Kirk Miles

MEMBERS ABSENT: Frederick Kral, III

The following public hearing was called to order at 7:05 PM:

Application 16-03: Savin Gasoline Properties, LLC, 107 River Road, for appeal of a Cease and Desist Order issued by the Zoning Enforcement Officer, with respect to modifications of existing signage. Listed in the Assessor's records as Map/Block 15/32 Vol/Page 93/117.

Attorney Harry Heller of Heller, Heller and McCoy, 736 Route 32, Uncasville, Connecticut, was present to represent the applicant. He explained that the procedures for appealing a cease and desist order is different from a variance application.

A copy of a Letter of intent to appeal dated August 17, 2016, and sent to Carl Brown, Zoning Enforcement Officer, was entered into the record (Exhibit A).

Atty. Heller stated that Savin is an aggrieved applicant because they are the owner of the property. The change that occurred was the change of an illuminated sign of one type, to another. John MacNeil, construction agent for Savin Gasoline Properties, was present to explain the change in the signs. The older signs have fluorescent lights inside, and price cards are manually slid on by an employee. The new signs, which utilize LED technology, are changed from inside the building, and are safer for the employees and utilize a lot less energy. He also stated that the canopy lights are changing with this technology, too, and that 90 percent of the properties now use this technology. He stated that forcing the applicant to change back to the older technology would require personnel to leave the register and go out into the weather. He is not certain that he can now purchase the older style internal fluorescent light signs.

Atty. Heller entered into the record, a copy of ZEO Carl Brown's Cease and Desist order (violation of section 15.3.d) (Exhibit B).

John MacNeil stated that the signs originally changed in 1997. It was originally a high-rise sign. Permit was received to repair and replace damaged components. He stated that just the face of the sign is being replaced, not the entire sign.

Atty. Heller submitted for the record a sign area chart (Exhibit C). The original sign from 1997 was a 60-foot

MINUTES
PUBLIC HEARING
ZONING BOARD OF APPEALS
TUESDAY, NOVEMBER 22, 2016
page 2. (cont)

sign at the back of the property. A 27-foot sign in front of the property was there until changed last year.

Atty. Heller submitted for the record the regulations for signage in effect for 1997, showing internally illuminated signage was not prohibited in 1997 (Exhibit D). The December 6, 1994 Zoning Regulations allowed for internally lit signage. Also submitted for the record was the history of zoning regulation amendments, showing 1994 regulations were in effect when the sign was approved in 1997 (Exhibit E). He then entered into the record a copy of the notice from Planning and Zoning's site plan approval for the property dated 9/17/1997 (Exhibit F). A copy of a memo from Everbrite, LLC was entered into the record (Exhibit G), evidencing the fact when the fluorescent lights are replaced with LED lights, the brightness drops down to 1/3 that of the fluorescent. In the cease and desist order, ZEO Carl Brown stated that no permit was given for a change of lighting – Atty. Heller entered into the record Permit #15-2132 dated 8/31/2015 for an electrical permit (Exhibit H). Atty. Heller feels the ZEO was in error with his cease and desist order because the permit pulled and change made was not an increase in non-conformity since 1997 zoning regulations.

Atty. Heller stated that repair done is an ordinary course of business. LED method is preferred because it is more environmental, uses less energy and emits less light.

Leo MacDonald questioned if the main complaint of the sign is that it is not externally illuminated? The answer was "yes".

Steve Brown asked if the sign was internally lit in 1997? The answer was "yes".

Kirk Miles read from the Quarterly Newsletter of the CT Federation of Planning and Zoning Agencies. A case was cited that showed a judgment was made where, if the regulation is ambiguous, then a determination should be made in favor of the land owner.

S. Beck, Chairman, asked for Public Comment. Steve Salveggio, owner of the Shell Station across the street from 107 River Road, spoke in support of the application. He stated he was not allowed to put up LED lights and the current sign is getting "old and worn", and that the numbers can fly off onto cars. He says the new sign across the street is safe for their employees, cars, and is easier to read than the old sign.

This public hearing was closed at 7:37 PM.



Elaine Joseph, clerk

APPROVED: _____
Steven Beck, Chairman

RECEIVED FOR RECORD AT LISBON
CT ON 11/28/16 AT 9:45am
ATTEST. LAURIE TIROCCHI, TOWN CLERK
