

**CITY OF WALTHAM
ZONING BOARD OF APPEALS**

December 6, 2016

The Zoning Board of Appeals held a public hearing at 7 P.M., Tuesday, December 6, 2016, in the Public Meeting Room of the Arthur Clark Government Center, 119 School Street, Waltham, MA.

In attendance were Chair Barbara Rando, and members Michael Cotton, Glenna Gelineau, Mark Hickernell and John Sergi.

Before we start the meeting this evening, I would like to say that we received word that Attorney Edward Bigham had passed away. He was an intelligent, kind gentleman who came before this board more times than I could count and he had exceptional wit. A caring man who gave a lot of Waltham Attorneys a good start in Waltham. He was a friend of the ZBA and we are going to miss him.

Could I ask for a moment of silence in his honor.

Thank you all very much. Now we will continue.

Tonight we have one two new cases before us. Case 2016-41, Colbea Enterprises, LLC, 65 Main Street and that is for variances;

Case 2016-39, Divine Sign, Inc., Paul M. Cook, Owner 195 Bear Hill Road and that's for a sign variance.

The first action this evening is for a motion to accept the minutes of November 29, 2016.

On motion of Mr. Sergi, seconded by Mr. Cotton, the board voted to accept the minutes of November 29, 2016.

Mrs. Rando: Will the clerk please read the petition in Case No. 2016-41, 65 Main Street?

The clerk then read the petition of Colbea Enterprises, LLC, c/o Ayoub Engineering Inc., Colbea Enterprises, LLC for an application for variances - Dimensional. The petitioner proposes the demolition of the existing gas station and convenient store building and construction of a new 3,600 +/-s.f. gas station with convenience store and fast-food establishment. New gas pumps and associated canopy to be constructed. Location and Zoning District: 65 Main Street, Business B Zoning District.

Mrs. Rando: May we hear from the petitioner or the petitioner's representative, please.

William J. Proia, the Petitioner's representative from Riemer/Braunstein, 700 District Avenue, Burlington, MA came forward.

Mr. Proia: We did submit a letter requesting a continuance of our testimony and I'm hoping that the board will take that up first. I can just let you know, we had a neighborhood meeting last Thursday on December 1st and there was a lot of participation. A lot of comments came back on the plan and so we decided we really should go back to the drawing board to try to address the concerns of the neighborhood.

And so, in order to give us enough time and the board enough time, we will probably get back to the neighborhood before the next time we meet here so we can be productive when we get here. So we are asking for that continuance.

Mrs. Rando: Do you have the letter that you wrote to the Zoning Board.

Mr. Proia: Yes.

Mrs. Rando: Would you read that into the record, please?

**Mr. Proia: Sure. It's addressed to the Chair. It says on here:
Chair Rando and Members of the Board.**

Please recall that this office and the undersigned represent Colbea Enterprises, LLC regarding the captioned matter (the Project) which is the Project as described by Mr. Hickernell.

Please note, a community meeting was held on December 1, 2016, at which time comments were received from the public regarding the project.

In recognition of that public input, and in the interest of using the Board's and the community's valuable time most productively, the Petitioner hereby respectfully requests the board to continue this matter without testimony to its next available public hearing in January, 2017, so the petitioner may have time to thoroughly review the public comments and to present a responsive revised project for the board's examination.

Thank you for your consideration of this request.

Mrs. Rando: Did you say you had a meeting scheduled with the neighbors?

Mr. Proia: We had it last Thursday.

Mrs. Rando: Are you going to have another one?

Mr. Proia: Well, I think we probably should, just so, when we get the revised plan we can vet it again through them.

Mrs. Rando: How will you let the neighbors know when you are going to have it?

Mr. Proia: The initial way we did it, was a five hundred foot abutters list. So we sent out 201 notices to people and then when they came we had them do a sign up sheet. So we have sort of both data bases of people and that's how we got the word out.

Councillor McLaughlin was actively involved so I let him know today that we would be requesting a continuance as well. And he spread the word to a couple of neighbors by email. So, I'm hoping the word got out.

Mrs. Rando: Are there any questions?

Mr. Sergi: What was the main concern, don't get into it, I just prefer to know.

Mr. Proia: The proximity. The variance is too close to the abutters property essentially; the massing of the building, traffic. So there was a number of things that we need to really work through and make improvements.

Mrs. Rando: I think your hundred days is February first. How about January 10th?

(The board members agreed on January 10th.)

Mrs. Rando: Do I have a motion to continue this case - - -

(Thomas Sullivan, 15 Barbara Road, in the audience got up and stated that he got notice a couple of hours ago and said if you are going to send a letter don't put it in my mail box, send a certified letter.)

On motion of Mr. Hickernell, seconded by Mr. Cotton, the board voted to continue Case No. 2016 to January 10th.

Roll call: Mr. Sergi, yes; Mr. Hickernell, yes; Ms. Gelineau, yes; Mr. Cotton, yes and Mrs. Rando, yes.

Mrs. Rando: Would the clerk please read the petition in Case No. 2016-39?

The clerk then read the petition for Divine Sign, Inc., Paul M. Cook (Agent) Owner: Extra Space Properties Ninety-Four, LP in an application for sign variance. The petition is seeking sign variance for secondary signs more than eighteen square feet and two sided ground sign 48 square feet each side. Location and Zoning District: 195 Bear Hill Road.

Mrs. Rando: May we hear from the petitioner or the petitioner's representative please?

Paul M. Cook, Divine Sign, Inc., the petitioner's representative cmd forward

Mr. Cook: I am the owner, operator and installer, general contractor, trying to be a lawyer tonight, I guess. There was enough square footage, you know, there was enough

frontage for the amount of square footage of signs that they have but the only thing to stop it is the eighteen square foot rule. So, two signs that Patrick allowed us to put up and we got the permits for them and we have the electrical permit for them and we put them up. And we are seeking a variance for the other signs that are located on the building which I put documents with Pam for all the other signs which were Signs 2, 3, 4 and 7 are basically replacement signs of what's already up there and was allowed from 2004 to 2009 without a variance. So I don't know if maybe at the time the inspectors maybe they didn't do their due diligence when they allowed these signs to be put up. So what they have done over there, they have remodeled the whole building, put all new siding on the building and remodeled to make them look modern. And that's basically what they are doing. They are bringing the image up to a modern look on the building.

So that's what they are seeking a variance for. Patrick seemed to think, I just talked to him about it, he seemed to think that being in a commercial zone and everything like that, that we would be allowed to put these additional signs up.

Basically, like I said, they are replacement signs. A lot of them are replacement signs and Sign #1 is one extra sign which is more than what was up there. The locus history and the current use, I brought all the documents that were on public record that they already let them have the signs, similar signs there.

The signs on the building, they won't have any negative effect with respect to these factors. The economic need for the signs to make the building recognizable from the street so the customers visiting the site can find their building. Also, like I said it's in a commercial zone and a highway zone, Traffic and safety is not negatively affected, The sign will allow employees, clients and visitors to officially identify the property location of the business. A properly sized and legible sign helps control traffic to the building and location to the business. The sign is the correct size to insure readability for motorists

traveling within several hundred feet of the site, The internal illuminated aspect of the sign will also help identify the sign from the distance.

As far as utilities and public services, sufficient electrical utilities exist on site to service the sign. The sign does not require the public services except building and electrical permits in association with inspections which they have been done. The sign is consistent with the type of dimensions as other signs located on commercial buildings in that neighborhood which is all commercial.

There will be no negative affect in respect in respect to this factor. The signs would be attached to the existing building. No land disturbances will be required as part of the sign installation, The sign will have no impact on the natural environment as well. There is no negative impact on town services. Increased visibility of the business will hopefully grow the business and result in employee opportunities for local residents.

If you have any questions, hopefully I can answer.

Mrs. Rando: Are there any questions, Mr. Sergi?

Mr. Sergi: I'm looking at all these signs. They are all illuminated in one way or other, right?

Mr. Cook: Yes, they are currently now existing.

Mr. Sergi: Sign #1 is ninety-six feet. You have it here, you have the word but then you have it crossed out for some reason. Is that the wordage that you have there, "Extra Space Storage"?

Mr. Cook: No, that's an electrical raceway behind the letters. Their all mounted on a raceway and then the raceway is put up. So if you need to service the sign, the other thing that Extra Space is doing as well, and I've done a lot of them, is their changing everything to LED. They have a bazillion solar panels on the roof so they are not pulling as much from the grid and they are kind of self aligned. So they are making money both ways.

Mr. Sergi: It seems like there's a lot of signs. I just picked on Sign #1 because, I mean what is that sign in that location going to do? It doesn't seem like there's much across the street and you have signs here close to the road and signs on the other side close to the road. What does Sign #1 do? What would be the purpose? What's that put up for?

Mr. Cook: It points toward Bear Hill Road. It's up higher on the building.

Mr. Sergi: Higher than Sign 2?

Mr. Cook: Yes. It's higher than Sign 2.

Mr. Sergi: And you really think you need all those signs?

Mr. Cook: Well, there is enough square footage for them and it's not like it's a huge residential neighborhood and it's not going to be really a detriment. Also, they can shut them off at a certain time if you would like. Usually they do anyway. They close at six o'clock at night, but there are people that come in I think till ten. They come and go. I don't rent any storage units but - - -

Mr. Sergi: I just think it's an overkill.

Mr. Cook: Well coming over Bear Hill Road, it can be viewed from the top of coming over the hill and then if you were driving by you would see the other one. You know, I understand.

Mr. Sergi: I just think it's redundant.

Mrs. Rando: Are there any other questions?

(There were none.)

Mrs. Rando: Tell me, by changing the light bulb to LED, are they brighter than a lot of the signs that are up there?

Mr. Cook: No.

Mrs. Rando: So those signs are LED too?

Mr. Cook: The signs that are up there are fluorescent.

Mrs. Rando: No, I mean in the surrounding buildings.

Mr. Cook: I don't know the surrounding buildings. I wouldn't know exactly how they are illuminated. The last five years, I would say, even eight years, everything that has been coming in, there's no more neon. The fluorescents have gone out and the LED's have come in. They are dimable as well. If something is too bright, they can dim them down with the LEDs.

Mrs. Rando: I agree with Mr. Sergi. I think that you have an overabundance of signs and the other ones are quite bright. And I agree with him on Sign 1. You're going to have sign 1 and 2 on that side of the building. I don't think one of them is necessary.

Mr. Cook: One of them is right close to the corner and the other one is up higher.

Mrs. Rando: I'm sure the one that is up higher could be seen.

Mr. Cook: There will be one on the front right on Bear Hill Road, so I mean if you think we eliminate sign 2, I mean - - -

Mr. Sergi: I think that makes sense.

Mr. Cook: Eliminate sign 2. I agree. Of course, they want bigger and better.

Ms. Gelineau: Well, it's a big building.

Mr. Cook: It is a big building.

Mrs. Rando: And they have to be lit if people are going to be there up until ten at night. So they should be lit till ten. Do you know what time they are allowed to go in in the morning?

Mr. Cook: I'm not sure if it's twenty-four hour availability over there or not.

Mrs. Rando: Do you think it's ten or twenty-four hours?

Mr. Cook: I can find out, I think it's ten. I'm not exactly sure. I know that employees only work till five or six o'clock, eight or nine in the morning till five or six at

night. Im not sure if customers can come and go. I'm pretty sure they can come and go as they please once they pay their rent. Most of the time I don't see people coming in there past ten o'clock at night.

Mrs. Rando: There is no one in the audience in favor, opposition or seeking information.

Did you happen to bring a copy of your Findings of Fact or Decision?

Mr. Cook: I think I sent it to Pam.

Mrs. Rando: So your hardship would be safety, that people would have to be able to see where they are going?

Mr. Cook: Yes.

What I did with the Findings of Fact, I sent it into Pam in what I just recited. And I sent in all this here which was previously allowed by the city. I have seven copies of that too.

(Mr. Cook submitted copies to the board.)

Mrs. Rando: Mr. Sergi, did you happen to see the Findings of Fact?

Mr. Sergi: I don't have it here. I'm not sure if we have saw Findings of Fact.

Mr. Hickernell: I don't think I've seen it.

Mr. Sergi: Did you prepare a decision as well?

Mr. Cook: A decision for?

Mr. Sergi: Your case.

Mr. Hickernell: So we ask every petitioner to prepare decision to work off of and send it in ahead of time.

Mr. Cook: Maybe I didn't send it, I don't know. I'll have to check.

Mrs. Rando: We could vote on it with the understanding that you get the Proposed Findings of Fact and Decision. Is that the wish of the board?

Mr. Cotton: I would like to have it continued to find out about the lights when they turn the lights on or off.

Mr. Sergi: It should comply to the ordinance. You should say that in your decision.

Mr. Hickernell: Pam can show you previous decisions related to signs that you could work off of.

Mrs. Rando: How about January 10th?

Mr. Cook: That's fine.

Mrs. Rando: Do I have a motion to continue Case No. 2016-39 to January 10th?

On motion of Mr. Sergi, seconded by Mr. Cotton, the board voted to continue Case No. 2016-39 to January 10th.

Roll call: Mr. Sergi, yes; Mr. Hickernell, yes; Ms. Gelineau, yes; Mr. Cotton, yes
and Mrs. Rando, yes.

Mrs. Rando: One more motion is in order.

On motion of Mr. Sergi, seconded by Ms. Gelineau, the board voted to adjourn at
7:22 P.M.

Barbara Rando, chair
12/13/16

December 5, 2016

Ms. Barbara Rando
Chair, Zoning Board of Appeals
City of Waltham
Government Center – 119 School Street
Waltham, Massachusetts 02451

Re: **ZBA Case No. 2016-41, Colbea Enterprises, LLC – 65 Main Street**

Dear Chair Rando and Members of the Board:

Please recall that this office and the undersigned represent Colbea Enterprises, LLC regarding the captioned matter (the “Project”) pending before the Zoning Board of Appeals.

Please note, a community meeting was held on December 1, 2016, at which time comments were received from the public regarding the Project.

In recognition of that public input, and in the interest of using the Board’s and the community’s valuable time most productively, the Petitioner hereby respectfully requests the Board to continue this matter without testimony to its next available public hearing in January, 2017, so the Petitioner may have time to thoroughly review the public comments and to present a responsive revised Project for the Board’s examination.

Thank you for your consideration of this request.

Very truly yours,



William J. Proia

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