

**TOWN OF STAMFORD**  
**ZONING BOARD OF ADJUSTMENT MEETING**  
**January 10, 2024**  
**(UNAPPROVED)**

Present: Board Members: Jean E. Kurpiel, Chair, Theodore N. Dobbert, Sheila G. Lawrence, Sheila Pecor, David Saldo.

Appellant: Town of Stamford (Selectboard): Michael Denault, Kurt Gamari, Pam Tworig, Nancy Bushika.

Visitors: Seth Bardo, Theresa Denault, Susan Flash, Victoria Jefferies, William Levine, Diane Saldo. Debra Burchard, Zoning Administrator.  
Lori A. Shepard, Clerk.

Jean Kurpiel called the meeting to order at 6:00 p.m. and opened with the Pledge of Allegiance. She welcomed Sheila Pecor to the board and noted the benefits a long-time resident will bring to the table.

**MINUTES**

MOTION by Dave Saldo to accept the regular meeting minutes of September 5, 2023 as written.

SECONDED by Sheila Lawrence. All in favor. Motion APPROVED.

The board entertained discussion on ZBA Permit #251 (Building permit application #2023-10) from the Town of Stamford to install, expand and alter the pre-existing non-conforming town sign. A variance is requested for setback requirements (50 feet from the centerline of the Main Road) pursuant to Section 4.4 – Dimensional Standards, and sign size requirements pursuant to Section 4.1.7 – Signs.

Jean Kurpiel reviewed proper protocols and recommended that Sheila Pecor should refrain from all participation.

MOTION by Dave Saldo that if Sheila Pecor wants to stay and vote on this matter she can.

SECONDED by Ted Dobbert. 3 in favor (Dave Saldo, Sheila Lawrence and Ted Dobbert), 1 opposed (Jean Kurpiel), 1 abstained (Sheila Pecor). Sheila Pecor chose not to participate or vote.

Jean Kurpiel felt it was important for all ZBA members to come with no pre-conceived notions or opinions. Regardless how people feel about the sign, whether they like it or not, they are here to address the facts. Jean Kurpiel administered the oath to all visitors in the room except Diane Saldo who did not intend to give any testimony.

Jean Kurpiel addressed the fact that there was a quorum of Selectboard members present. It was agreed that Mike Denault would speak on behalf of the Selectboard and the other members were present as private citizens.

Dave Saldo asked if members of the Selectboard have spoken about the sign previously and expressed their opinions.

Pam Tworig and Sheila Pecor submitted documents for the board's review. Jean Kurpiel acknowledged their receipt and stated that they will be accepted as exhibits along with the letter received from the town's attorney.

MOTION by Sheila Lawrence to open discussion regarding the sign. SECONDED by Dave Saldo. 4 in favor. Sheila Pecor did not vote. Motion APPROVED.

Mike Denault said this has been a learning experience for all of us. The Selectboard appointed a Community Projects Committee (CPC) and let them go on without Selectboard involvement assuming they were following the correct process. They have verbal testimony that the CPC Chair asked the former Zoning Administrator if a permit was necessary and was advised no permit was necessary. The Committee obtained grants and did not take any money from the town. They installed the sign in the same place as the prior sign without thinking about the setbacks. The Selectboard received a complaint about the setbacks and the size of the sign. The Selectboard sought legal advice and the attorney agreed the town should have pulled a permit. Mike Denault acknowledged the Selectboard made a mistake, they are responsible for the committees they create and the Selectboard is now requesting a variance to keep the location of the sign the same. The Selectboard would like to expand the size of the sign to address concerns that the sign lacks information by hanging three additional signs saying School, Library and Town. The town also requests a variance for the size of the sign. If the ZBA does not grant a variance, it would be just adding additional cost to the town. He stated that the town still needs a sign and the town has invested \$1,200.00 already in attorney's fees so it would be the fiscally responsible thing for the ZBA to approve the sign.

Susan Flash stated that she was part of the original volunteer group and said they went before the Selectboard to review the projects and that a tremendous amount of work went into it.

Deb Burchard stated that she saw the note in a notebook where the Committee member asked the former Zoning Administrator at the time if a permit was needed and was told no. Pam Tworig agreed that the Zoning Administrator told Pat Sullivan that no permit was needed and also told Carolyn Brooks later that no permit was needed. Jean Kurpiel acknowledged that neither Pat Sullivan or Carolyn Brooks were present to testify to that.

Victoria Jefferies said she was involved in the artistic part from the beginning and showed the Zoning Board several different sign designs she had created and had asked about the size and placement so she did her due diligence before proceeding. She said the original layout was much larger and was scaled back due to the cost. No one complained about the size of the models she presented.

Mike Denault noted that no one tried to pull a fast one. The mistakes made were honest mistakes. Jean Kurpiel agreed with him, but they need to recognize that the sign is egregiously larger than the size allowed. It is difficult to sit on the board and if it approves a variance for the town, then what if someone else comes and wants a 37 foot sign? The ZBA has to protect the Zoning By-laws.

Pam Tworig indicated that the Selectboard had approved this project. Then six months after it was installed, after thousands of hours and plant material paid for by the grant, and time volunteered out of the goodness of our hearts, an abutter comes in and complains when the Committee did

everything right. She feels if the variance is not granted, the grant money should be returned to the organization.

Victoria Jefferies explained that various grants were obtained for community development. Lori Shepard provided a breakdown of the grants received and how the funds were spent on the tile bulletin board/sign project, the bench project and the new sign. There is currently \$546.00 left in the account.

Bill Levine said he was one of the volunteers and heard through the Committee that the Zoning Administrator said no permit was needed. He questioned the Zoning Board's responsibility for the decision made by a town representative. Drawings of the sign were available but Bill Levine did not know if they were ever shown to the Zoning Administrator. Kurt Gamari said it is hard to assume what the Zoning Administrator was given without his testimony.

Dave Saldo recalled that Ron Plock was very consistent in requiring permits and putting everything in writing. He said this town has been very strict with its permits and it is important to follow protocol. He appreciates the efforts made by the volunteers and likes the sign, but the ZBA needs to follow protocol or it will become chaos.

Jean Kurpiel acknowledged the letter from Attorney Fisher and read a portion of it: "From the facts already known, a variance would be difficult to approve, especially because the Town has created its own hardship by constructing a larger sign than what was previously grandfathered. However, counsel will not substitute its judgment for the judgment of the ZBA if indeed the Selectboard seeks such a variance. Alternatively, the Selectboard can seek a zoning permit in compliance with the Zoning By-laws by reducing the size of the sign to either the 12 square foot limit or to the pre-existing size and location if that can be better ascertained." She thinks as a board, it is difficult to now ignore the attorney's opinion on the matter.

Pam Tworig asked if the school or fire department needed an addition and the only way to do it was in violation of the Zoning By-laws, shouldn't the building receive a variance? Jean Kurpiel responded that there would be a certificate of need in that instance. There is no need here.

Pam Tworig questioned if every permit the Zoning Administrator issued is open for review now. Jean Kurpiel agreed that if someone complained about a non-conforming sign in violation of the By-laws, the Zoning Board would meet. Jean Kurpiel noted that if those people got a permit, it would be different. She noted that the town includes information with every tax bill that you need a permit to build.

Jean Kurpiel said if people do not agree with the Zoning Board's decision, they can go to the state land court to appeal the decision.

Dave Saldo agreed that the lawyer's letter is very clear. He asked if the variance was granted tonight, what recourse would the people who disagreed with the sign have. Jean Kurpiel said they would also have recourse to the state court.

Victoria Jefferies noted that the previous sign was also oversized. The new sign could have been grandfathered in if it was the same size as the previous one.

Sheila Lawrence thought if the sign needs to be removed, the old sign could be put back or a smaller sign. Perhaps the new sign could be hung on the side of the school building. Several did not think that was an option. Deb Burchard did not think the old sign could be put back.

Mike Denault noted that the ZBA has the power to grant the variance and it will save the town further expense. The sign cannot be modified. Jean Kurpiel agreed but feels if they do, they could be opening the town up to a serious legal battle. Mike Denault asked why issuing variances in the past wasn't opening a can of worms then. Jean Kurpiel agreed they have issued many variances but they have not been contested. Usually neighbors come and are in favor of the variance as the non-conforming use will improve the home.

Kurt Gamari noted that many mistakes have been made by Zoning Administrators and we should not be able to go back to decisions made by a former Zoning Administrator. The lookback period should only be the term of the current Zoning Administrator. Deb Burchard said it could go back at least 15 years. Pam thinks moving forward with this sign is the best thing for the town and we should just put this behind us and move on. She does not think if the ZBA grants a variance that people will really sue the town. She feels enough damage has been done. Jean Kurpiel agreed, but on the other hand, the town has to be held to a higher standard. When the town does something so egregiously against the By-laws, it does not bode well to put up a 37' foot sign,

Nancy Bushika said she was there when the sign was put up and had no idea it was too close to the road. The initial thing she heard was that people didn't like the sign. That snowballed and then research was done to discover that the sign was in violation.

MOTION by Dave Saldo to enter a private deliberative session.

Bill Levine felt there was no provision for an executive session. Dave Saldo clarified that he was not asking for an executive session and argued that there are rules allowing a deliberative session.

SECONDED by Sheila Lawrence. 3 in favor (Dave Saldo, Sheila Lawrence and Ted Dobbert), 1 opposed (Jean Kurpiel). Sheila Pecor did not vote. Motion APPROVED.

Discussion ensued whether the Zoning Board could enter deliberative session. The board reviewed the Zoning Board of Adjustment handbook for clarification. Pam Tworig read her findings from the internet to the board: "A deliberative session occurs only in conjunction with a quasi-judicial proceeding. These are situations where a public body (such as a Selectboard or development review board) is acting like a judge or jury in that it takes evidence or testimony, and then weighs, examines, and discusses the reasons for or against an act or decision based on that evidence. 1 V.S.A. § 310(6). Examples include tax appeal hearings before the board of civil authority; vicious dog hearings and employment termination hearings before the Selectboard; and zoning and subdivision hearings before a planning commission, ZBA, or development review board. The exception for deliberative session is limited to quasi-judicial proceedings and does not apply simply because the public body wants time to deliberate in private."

The Zoning Board of Adjustment members Dave Saldo, Jean Kurpiel, Ted Dobbert and Sheila Lawrence, entered deliberative session at 7:19 p.m.

MOTION by Dave Saldo to exit deliberative session. SECONDED by Ted Dobbert. 4 in favor. Motion APPROVED. The Zoning Board of Adjustment exited deliberative session at 7:25 p.m.

Jean Kurpiel stated there is no way to say how much work went into the sign, it is a lovely sign. MOTION by Ted Dobbert to deny appeal #251, of Building Permit application #2023-1. SECONDED by Sheila Lawrence. 4 in favor, Dave Saldo and Jean Kurpiel both with regret. Sheila Pecor did not vote. Motion APPROVED.

Jean Kurpiel noted that 14 days to remove the sign is a short period of time in this weather. She said the attorney's recommendation was to remove the sign prior to filing the appeal but that was not done. Sheila Lawrence suggested one year. Mike Denault asked what the consequences were if the town does not remove the sign. Jean Kurpiel responded that the town would be in contempt and charges would have to be filed. The town is under no obligation to replace it. Nancy Bushika noted that if the town goes back to the old sign or a smaller sign they will need to start the permit process over.

Kurt Gamari asked if it was in the state statutes that a municipality has to file a permit for themselves. Jean Kurpiel has only received legal opinion. She feels the municipality should not have to pay for a permit. Deb Burchard said the municipality may not have to file a permit, but the town still has to comply with its By-laws.

MOTION by Ted Dobbert to require the sign to be removed by May 1, 2024. Without a second the motion failed.

Sheila Lawrence would like to let it go until school gets out and then remove it.

MOTION by Dave Saldo to require the sign to be removed by the end of school. Without a second the motion failed.

A debate began and Jean Kurpiel called the meeting to a close. The board could decide the removal date at a later time.

MOTION by Sheila Lawrence to adjourn. SECONDED by Ted Dobbert. All in favor. Motion APPROVED. The meeting ended at 7:35 p.m.

Respectfully submitted by

Lori A. Shepard, Clerk

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