



BOARD OF APPEALS  
**TOWN OF FOXBOROUGH**  
40 SOUTH STREET  
MASSACHUSETTS  
02035

**Foxborough Zoning Board of Appeals Minutes  
December 19, 2013**

Members present: Chairman Neil Forster, Members Barney Ovrut and Kim Mellen, Alternate Member Kristofer Behn

Chairman Forster opened the meeting at 7:00 p.m. in the McGinty Room of the Public Safety Building at 8 Chestnut Street.

**7:00 p.m. Continued Public Hearing - Foxboro Realty Associates LLC requests a Special Use Permit to allow a Non-Digital Billboard with two (2) faces on Washington Street (Assessors Map 30, Parcel 695).** The applicant has requested a continuance to March 2014 as the Sign Bylaw is still being worked on by the Sign Bylaw Committee.

A motion to continue the Public Hearing to March 20, 2014 meeting was made by Mr. Ovrut and seconded by Ms. Mellen. The motion carried 4-0-0.

**GENERAL BUSINESS**

Mr. Ovrut, who is on the Sign Bylaw Committee along with Building Commissioner Bill Casbarra, Town Planner Sharon Wason, Selectmen Lorraine Brue, Finance Director Randy Scollins, Planning Board member Bill Grieder and Board of Water and Sewer Commissioner Bob Garber, updated the Board on their work so far. They have hired a consultant and have developed an online survey in regards to signage. They will also be conducting public workshops and hope to have a draft bylaw in time for the Town Meeting in May.

A motion to approve the minutes of October 17, 2013 was made by Mr. Ovrut and seconded by Ms. Mellen. The motion carried 3-0-0.

**7:10 p.m. Continued Public Hearing - 91 Washington Street Investors LLC c/o Foxstar Corp requests a Special Use Permit to install a free standing billboard at 91 Washington Street.** Atty. Frank Spillane noted the Mr. Ovrut was absent at the October meeting so he was not appointed to this petition, Atty. Spillane requests that Mr. Ovrut be appointed to this petition at this time. The Chairman took no action on this request. The applicant is requesting a continuance as work continues on the Sign Bylaw.

A motion to continue the Public Hearing to March 20, 2014 meeting was made by Mr. Ovrut and seconded by Ms. Mellen. The motion carried 4-0-0.

**7:20 p.m. Cumberland Farms, Inc., requests a Special Permit pursuant to Foxborough Zoning By-Laws Table of Use 3-1, A.3 to reconstruct a motor vehicle fuel facility at 20 Mechanic Street. The applicant also requests variances from Section 4.2.8 to allow the construction of a gasoline facility within 50 feet of a lot line, Section 4.1.3 to allow the construction of a canopy with pumps within 100 feet of a residential district, Section 4.1.3 note 1 to allow off street parking spaces within 100 feet of a residential district, Section 6.4.4.2 from the 30 foot front yard landscape strip requirement, and any other variances applicable for the construction of the structure. The property located at 20 Mechanic Street is located in a General Industrial Zoning District and is located in the Design Review Overlay District.** The applicant was represented by Atty. Peter J. Paulousky of Doherty, Ciechanowski, Dugan & Cannon. Also present was Engineer Matthew A. Leidner of Civil Design Group, Project Manager Paul Wilson and Senior Sales Manager Ruthann McCarthy.

Mr. Forster read a letter of support for the petition from the Planning Board and Town Planner Sharon Wason.

Atty. Paulousky explained that no prior decisions for this site could be found but they have been at this location since 1976. They would like to raze and rebuild a larger Cumberland Farms and to install larger underground fuel storage tanks to be able to expand the filling stations from eight to twelve. The current tanks are 24,000 gallons and they are proposing to replace them with 40,000 gallon tanks. These changes will require a Variance.

The new building will include an expanded storage area which is needed as they will be having more fresh food options available. The size of the building will increase from 2,500 square feet to 4,500 square feet. The building location will be pushed back from the current building and the filling stations will now be perpendicular to the street instead of parallel.

Engineer Matthew Leidner reviewed the plans with the Board. He noted that the site is surrounded by General Industrial zoning on three sides with residential zoning across the street. He reviewed the improvements that will be made including new gas pumps and canopies as well as improved drainage. He also reviewed the parking available which includes 13 spaces on site and an additional 21 spaces on the street. The curb cuts will not be changing.

The canopies will be in the front setback of 100 feet. They would also like to relocate the gas storage tanks from the left side of the site to the right side of the site for safety of the tankers as they will no longer cross in front of the building with a full tank.

They will also be installing a landscape buffer in the front of the site. The details will be discussed during Site Plan Review by the Planning Board. The site will also include a loading dock of 84 x 120 feet which is maximum size that will fit.

They would also like to add a diesel fuel filling station which is currently not on site. They will either be connecting to the town sewer or designing a new septic system to handle the additional capacity.

Diane and Matthew Griffin, the owners of the multi-family residence at 24 Mechanic Street, stated that they are okay with the project overall, Cumberland Farms have been good neighbors to them, but they have concerns with the moving of the underground storage tanks to the right side of the lot as they will be moving closer to their lot. They also have concerns with the lighting of the additional canopies and would like the fencing upgraded.

Ms. McCarthy stated that the current hours of operation are from 5:00 a.m. to 11:00 p.m., they would like to be open 24 hours. Mr. Forster noted that the Town Bylaws prohibit sales between the hours of 12:00 a.m. to 6:00 a.m.

Mr. Behn stated that he is not comfortable with the relocating of the underground tanks closer to a residential home.

A motion to close the Public Hearing was made by Mr. Ovrut and seconded by Ms. Mellen. The motion carried 3-0-0.

The Board immediately moved into deliberations.

Mr. Ovrut noted that this petition is not asking for anything substantially different than what is already there and feels that there will be no intensification to the use.

The Board discussed the moving of the underground tanks from one side of the site to the other and decided they would prefer them to stay where they are.

A motion to grant a Special Permit to Cumberland Farms at 20 Mechanic Street with the following conditions: The building, storage tanks and fuel filling stations shall be constructed as shown on the site plan, the proposed use will be subject to Site Plan Review by the Planning Board, the exterior of the proposed store shall be subject to review by the Design Review Board, adequate fencing with light-blocking capability will be provided, lighting will not spill from the site, the store will be closed from 12:00 a.m. to 6:00 a.m. and no alcohol sales will be allowed was made by Ms. Mellen and seconded by Mr. Ovrut. The motion carried 3-0-0.

A motion to grant the requested Finding for Cumberland Farms at 20 Mechanic Street on the basis that the petition is not substantially more detrimental than the present structure was made by Mr. Ovrut and seconded by Ms. Mellen. The motion carried 3-0-0.

A motion to grant the requested Variances for Cumberland Farms at 20 Mechanic Street to allow the construction of the fuel pump canopies within 100 feet of a residential district, to allow off-street parking within the required front yard, to locate a gas filling facility within 50 feet of the property line, and to allow a loading area less than 120 feet in depth and to allow an exemption from the 30 foot landscape strip was made by Mr. Ovrut and seconded by Ms. Mellen. The motion carried 3-0-0.

The meeting was adjourned at 8:15 p.m.

Respectfully Submitted,

Diana Gray