May 26, 2015

LOCATION: Old Selectmen’s Meeting Room, Municipal Office Building

MEMBERS PRESENT: Paul George, Acting Chair/Clerk
Fred Confalone
Melvin Gordon
Dale Schaetzke
Peter Collins, Associate Member

Mr. George opened the meeting at 6:30PM and reviewed the procedures.

Minutes:
The April 27, 2015 minutes were presented for approval.

VOTE TAKEN:
Motion: Mr. Gordon moved to approve the minutes. Mr. Schaetzke seconded. Mr. Collins abstained since he had not attended the April 27, 2015 meeting. Motion carried.
Minutes: The minutes of the April 27, 2015 meeting were approved, 4-0.

Sign Bills:
Mr. George announced the following bill:

- $184.00 to the Telegram & Gazette for the April 27, 2015 legal notices.
  Total = $184.00

VOTE TAKEN:
Motion: Mr. Collins moved to approve the bill. Mr. Schaetzke seconded. Motion carried.
Bills: The bill was unanimously approved and signed.

Hearing 1:
1 Lahinch Lane – Herbert & Kelly Lade
Special Permit – Deck (side setback)

Mr. George read the legal notice into the record. Other acting Board members included Mr. Collins, Mr. Confalone, Mr. Gordon, and Mr. Schaetzke.

Presentation
- Mr. and Mrs. Lade were not present. In their absence, Ms. Las explained their request to the Board.
- The deck was constructed in 2002-2003.
- The history is that the previous Building Inspector’s interpretation of open decks did not require that they meet setbacks. However, for the past five (5) years, the current Building Inspector has held the interpretation that open decks must meet setbacks. Therefore, the Lade’s currently have a pre-existing,
non-conforming deck being thirty-four (34) feet from the west side and twenty-six (26) feet from the north side property lines.

- They wish to maintain the same non-conforming side setback of twenty-six (26) feet and change the shape to still be in compliance for all other setbacks.
- The request is for a Special Permit because it is an alteration of a non-conforming structure.

**Board Questions**
- Mr. Gordon asked Ms. Las if the deck was non-conforming when it was built. It was not considered so, because the Building Inspector was not enforcing setbacks at the time for open decks.

**Abutters**
- As there were no comments from the public, the hearing was closed.

**Board Discussion**
- Mr. Confalone mentioned that the only real difference seemed to be the curve in the design.
- Mr. Gordon commented that although the applicants were not present, he saw no derogation from the Bylaw.
- Ms. Las advised that if they would have approved this request had the applicants been present, they could proceed with a vote now.

**VOTE TAKEN:**

**Motion:** Mr. Gordon moved to approve the Special Permit for 1 Lahinch Lane. Mr. Schatzke seconded. Motion carried.

**Hearing 1:** The Special Permit for 1 Lahinch Lane was unanimously approved.

**Hearing 2:**
196 Main Street – Healthsource of Shrewsbury, Inc.
Use Variance – Continuation of a chiropractic & massage therapy business

Mr. George read the legal notice into the record. Other acting Board members included Mr. Collins, Mr. Confalone, Mr. Gordon, and Mr. Schaetzke.

**Presentation**
- Atty. Richard Ricker was present for the appellant. Atty. Ricker said he had spoken to both the Building Inspector and the Town Planner regarding his client, who was not ready to proceed. He, therefore, asked for a continuance to the next regularly scheduled meeting.

**VOTE TAKEN:**

**Motion:** Mr. Schaetzke moved to continue the hearing to the next regularly scheduled meeting. Mr. Collins seconded. Motion carried.

**Hearing 2:** The hearing was continued to the next regular meeting, which was scheduled for June 29, 2015 at 6:30PM.

**Hearing 3:**
40 Eastern Point Drive – Eastern Point Condominium Trust
Variance – Shed (front setback & proximity to dwelling unit)

Mr. George read the legal notice into the record. Other acting Board members included Mr. Collins, Mr. Confalone, Mr. Gordon, and Mr. Schaetzke.
Presentation

- Atty. Richard Ricker was present for appellant. He explained that the condominium complex proposes to put in a new geothermal system with a new control station, which will house the site’s pumps, etc. The background is that this system was the first of its kind in the Town. However, over time, these systems tend to wear out and it needs an upgrade. The new system will take care of the entire complex.

- An accessory shed is proposed for housing the control station. It is to be located as high on the property grade-wise and as far away from the lake as possible. There is one shed near the “guard shack” already. This one will be placed nearby – and as surveyed by Jarvis – 13.2 feet from the front property line on North Quinsigamond Avenue and 4 feet from Unit #39’s garage (not the residence). The engineers have told him that this is the best location for it on this full site.

- The small accessory shed will blend in with the same look as the rest of the complex in terms of siding and roofing.

- This situation is unique to this property. There will be no noise, vibration, or nuisance to disturb the neighborhood and no derogation from the Bylaw.

Board Questions

- Mr. George asked if there is a pad it will sit on. Yes, a foundation, which triggers this request.

- Mr. George noted that the Fire Chief had submitted an email stating that he had no fire or life safety concerns for this plan. Atty. Ricker added that the Chief had been responding to the condo management’s emailed explanation that there would be electric heat but no combustibles present.

- Mr. Confalone asked the underground piping would be left intact or if it would need to be redistributed. Some underground redistribution of piping will be necessary, and the shed’s control system will become the focal point.

- Mr. George asked if the shed would be fenced in. Atty. Ricker said there is a fence that runs along the front of the property, but he was unsure whether the shed would be placed behind the fence or not.

- Mr. Collins commented that the condo complex had been there for approximately thirty (30) years now. Atty. Ricker confirmed that saying he was their representative when they had sought their original permit from the Board.

- Mr. Collins followed by checking that the shed’s size was to be 8 feet by 12 feet. Atty. Ricker replied yes, it will be similar to what one sees in any residential yard. Mr. Collins also asked whether there was a central control panel now. Atty. Ricker replied that currently each building has its own.

- Mr. Schaetzke checked that it was to be both a replacement and an upgrade for the system. Yes, it will be a better, more efficient system. It must also be placed a certain distance from the wells.

- Mr. Schaetzke followed by asking what the hardship was. Atty. Ricker replied it is the topography and proximity to the lake. This is a terraced property (it slopes towards the lake), and from what he knows, the highest grade of a property is best for this type of system’s pump controls.

- Mr. Collins commented that the site also has a lot of retaining walls. Atty. Ricker again admitted it is a compact site and said those further limit the placement of the shed.

Abutters

- As there were no comments from the public, the hearing was closed.

Board Discussion

- None.

VOTE TAKEN:

Motion: Mr. Gordon moved to approve the Variance for 40 Eastern Point Drive. Mr. Schaetzke seconded. Motion carried.

Hearing 3: The Variance for 40 Eastern Point Drive was unanimously approved.
Hearing 4:
193 Boston Turnpike – Douglas Thomson
Variance – Outdoor retail sales

Mr. George read the legal notice into the record. Other acting Board members included Mr. Collins, Mr. Confalone, Mr. Gordon, and Mr. Schaetzke.

Presentation
- Mr. Thomson was present. He stated that he would like to continue what he started within the Spag’s building - “Spag’s Antique Alley” – outside. He would like to expand to do outdoor sales. This would only be a temporary situation as they are waiting for the Spag’s property to be sold and become part of the Lakeway Commons project. So it may only be for the summer or early fall.
- He stated there is lots of room on the property for both vendors and customer parking. He has also consulted both Fire and Police, and they had no issues with it.

Board Questions
- Mr. George asked if he had a plan for setup and parking. Yes, as submitted in the application packet. Mr. George asked for clarification as to where the vendors would be situated on the site. Mr. Thomson pointed out on the site plan where the vendors would be. This would be the parking lot area by the main Spag’s building, near Lovey’s. Customer parking would be at the Spag’s Schoolhouse building parking lot and the other Spag’s lots if there was overflow. He added that Baker Ave could either be closed off or left open, as allowed.
- Mr. Collins asked who would make the determination on traffic flow. Mr. Thomson responded that he understood this Board would.
- Mr. Gordon asked if he had responded to the Building Inspector’s request to remove the signs which were in violation. Yes.
- Mr. George asked if he had spoken to the abutters. He had spoken to one (1), who didn’t have a problem with it. That abutter understands that the property is in the process of being sold, and he may also sell his own property to the developers.
- Mr. George asked what the hours would be. He replied, Saturday and Sunday 7am-3pm for vendor operation, then 3pm-5pm for vendor clean-up.
- Mr. Collins asked for more info about traffic control. Mr. Thomson again mentioned that he has good relations with the both the Fire and Police Departments, and he would do whatever they required. Mr. Collins followed by asking who would make that determination of what was needed. Mr. Thomson said his understanding was that this Board would impose the requirements. He would like the vendors to enter on Harrington Ave. He also have his staff in bright-colored shirts directing traffic within the site.
- Mr. Collins asked who the vendors were. Mr. Thomson replied that in general they sell old (not new) items “of some grade”: antiques, household furnishings, jewelry, silver, etc. Some items are handmade by skilled craftspeople. These are not “knock offs”. He hoped it would be similar to the Brimfield Flea Market, where there is also grown food and arts and crafts.
- Mr. Collins asked if any vendors would be cooking food. No, however, if any mobile food trucks are permitted by the Town and are available, he would welcome them to the site.
- Mr. Collins asked if they would have toilets. Yes. There would be access to those inside and two (2) porta-potties would be made available outside.
- Mr. Collins asked how many vendors were planned. One hundred (100)? At the maximum. They would perhaps build up to that.
- Mr. Confalone followed by asking how many vendors were currently inside. Mr. Thomson said that he only had fifteen (15) now, since some had already left due to the impending sale of the property. Mr. Confalone asked how many he had had at its maximum. Thirty-five (35). However, some of those
had taken two (2) spaces, so it appeared more like sixty to sixty-five (60-65). He drew a quick sketch for the Board in order to better explain the intended layout. He said there would be twenty (20) feet between the rows of vendors, which the Fire Department told him would be adequate for their requirements.

- Mr. Confalone asked if there would be tables for the vendors. He said he has a few tables vendors could use; however, others would need to bring their own. A vendor might have a van with the back open to display items and/or with a tarp on the ground to display items. But he said each vendor would stay within the space designated to him/her.
- Mr. Collins and Mr. George asked why he wished to expand outside if there was still plenty of room inside. Mr. Thomson answered that he still feels its Shrewsbury’s “best kept secret” despite all the advertising he’s done on Craig’s List, etc. He also feels there is a lot of public interest in outdoor activities in the summer. It would also provide outdoor work for the vendors this summer, to help keep them economically viable.
- Mr. Collins asked if he had an end date in mind. Mr. Thomson said he assumed in the fall, but the timing depended on the hurdles involved in the Lakeway Commons sale. He added that if this were not approved, the operation would probably fold at this point. He knows of many cities where flea markets utilize the available parking lots to operate. He argued that there is a great deal of room on this site which is not currently being used, and he believed there would be no hazards involved.
- Mr. Collins reminded him that considering the twenty (20) day appeal period following an issued decision, he would not be able to operate until the end of June or beginning of July. Ms. Las added that knowing he had a “Yes” vote, however, he could proceed at his own risk.
- Mr. Schaetzke and Mr. Collins both asked for clarification on the request needing a Variance, since the Town Meeting had changed some zoning requirements recently. Ms. Las confirmed that although “outdoor display” only needed Planning Board approval now, “outdoor retail sales” still required a Variance from this Board.
- Mr. Schaetzke followed by asking what Mr. Thomson’s hardship was. He stated it was financial. He added that he also felt he was providing a service to the community by having a memorial to “Spag”. He explained that once he himself had learned more about “Spag”, he assembled some memorabilia on the history of the man and the store. He says many people are touched by it, and it has become a focal point for people to socialize and to memorialize him. He thought local residents would be pleased as many of his customers are local and having a couple more months to remember what Spag’s has meant to the community would be welcomed.
- When Mr. Thomson heard the Board members’ reservations, he asked if there was a safety concern. Mr. Gordon replied, No. Mr. Thomson reminded them that this was meant to be a temporary situation.

Abutters
- As there were no comments from the public, the hearing was closed.

Board Discussion
- Mr. Gordon said that although he is generally for commercial projects, he was not convinced that this was this property’s highest and best use. He thought it was the wrong use at the wrong place.
- Mr. Confalone commented that he was still trying to visualize what Mr. Thomson proposed and that it did not sound appropriate for Shrewsbury.
- Mr. George said Shrewsbury has nothing else similar to this right now. He thought there was still too much uncertainty to it. He thought that keeping it within the building was more contained. Outdoors there would be less control over litter, etc.
- Mr. Schaetzke did not think it could be likened to Brimfield – and he could see the others’ concerns with it not being attractive – but he had no major issue with it. He thought, however, that it should still have a legitimate hardship, whether it was meant to be a permanent or temporary situation.
- Mr. Collins thought that perhaps it might fit better in a different area.
Minutes of the Zoning Board of Appeals  
May 26, 2015

VOTE TAKEN:
Motion: Mr. Gordon moved to deny the Variance for 193 Boston Turnpike. Mr. Schaetke seconded. Motion carried.

Hearing 4: The Variance for 193 Boston Turnpike was unanimously denied.

New Business:  
Khaja Shamsuddin submitted a letter on May 1, 2015 requesting a withdrawal for the 136 Prospect Street decision.

VOTE TAKEN:
Motion: Mr. Gordon moved to accept the withdrawal for 136 Prospect Street. Mr. Schaetzke seconded. Motion carried.

New Business: The withdrawal for 136 Prospect Street was unanimously approved.

Old Business:  
Master Plan Update  
Ms. Las reported that the Master Plan Steering Committee gave a full update at the Town Meeting last week. They have received the full draft of the plan, which has been posted to the website. She encouraged everyone to review the document. The next meeting is scheduled for May 28, 2015 from 8:30-10:30AM in Town Hall. They plan to review the entire draft as well as the Housing element in detail. Their goals for this summer are to refine the language in the draft and to further educate the public, business owners, and board members about the plan. They will also be reviewing the short, medium and long term goals for cost effectiveness. The entire draft is now posted on their website. The public is encouraged to review it and comment. In the fall, if a Special Town Meeting is held, they will ask for the Selectmen’s endorsement of the plan.

Correspondence:  
None.

Announcements:  
Ms. Las reported that six (6) articles related to zoning were approved at the recent Town Meeting. Most were administrative. The three (3) that may affect this Board are that 1) outdoor display and 2) sidewalks will now only require approval through the Planning Boards site plan approval process and not a Variance through this Board. Also, 3) the definition of a farmers market was revised to include that up to twelve percent (12%) of the vendors may be artisans and craftspeople.

The meeting adjourned at 7:20 PM.

Respectfully submitted by,

__________________________
Michele M. Bowers

Reviewed by,

__________________________
Kristen Las, AICP

Approved by vote of the Board,

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Paul M. George, Clerk