

**ZONING BOARD OF APPEALS
MEETING MINUTES
October 3, 2016**

2016 DEC 28 PH 12: 55

Present: Eric Smith, Chair; Jim Zarkadas, Phil Ruggerio, Tino Lichauco, Craig White

Staff: Ara Yogurtian, Liaison to the Office of Community Development

7:05 P.M. Meeting called to order

Chair Eric Smith welcomed everyone to the October 3, 2016 meeting of the Zoning Board of Appeals, introduced all the members of the Board, and then proceeded to give a brief outline of the process. He encouraged public participation before the Board's deliberation at the end of the meeting, as well as submission of relevant documents and other materials necessary to support each case. He also stated that the Board had reviewed all submitted materials and urged there was no need to repeat that information. He mentioned that the second part of the meeting would be for deliberations and voting and that Applicants could stay until the end of the meeting or call Mr. Yogurtian tomorrow for the results.

Case No. 16-20, A Special Permit and two Variances, 350 Trapelo Road, Robert Fadel

Mr. Becker, Applicant's Attorney, appeared before the Zoning Board and distributed a petition signed by neighbors and letters of support. He also distributed a statement from Mr. Fadel to describe previous business operations, history of the gas station, and supporting information. Mr. Becker explained that he had come before the Board to ask for an extension of two variances that had been previously granted to reduce the setbacks and increase the lot coverage beyond the allowable lot coverage. Mr. Becker described how the Applicant believed that the existing canopy footings were not safe and the neighbors and Mr. Fadel were concerned. Mr. Fadel proposed a new replacement canopy that would be larger, safer, and better looking. Mr. Becker noted that the trucks using Hull Street for deliveries are a concern to Mr. Fadel and that the new canopy would allow trucks to enter from Trapelo Road for deliveries. He added that the new tanks would move adjacent through the two new columns and that the gas delivery truck would now be able to drive in-between the columns for delivery entirely on Mr. Fadel's property and not from Hull Street.

Eric Smith, asked the Applicant to describe the future plan for the pumps. Mr. Smith asked for clarification on how many pumps the Applicant planned to have at the station in the future and how the pumps would be arranged. Mr. Fadel stated that he wanted two pumps on each column so as to reduce the wait to get gas. He added that there could potentially be eight cars at a time.

Mr. Becker stated that Mr. Fadel wanted to update and modernize his gas station and improve the appearance of the business. He noted that Mr. Fadel could spend up to \$400K on improvements for the benefit of the neighbors and Town. Mr. Becker said that a previous Board had already determined the existence of hardship and he was now alleging a new hardship due to difficulties of deliveries. He added that the business' viability depends on the new canopy and that Mr.

Fadel was doing everything he could to comply with the previous conditions. Mr. Becker asked the Board if there were any conditions that Mr. Fadel needed to correct and whether the gas station was currently in compliance with the conditions set by the Town. He stated that Mr. Fadel intended to meet all of the Town's conditions.

Mr. Smith said that the Applicant must comply with previous conditions from the Special Permit issued in 1993. He listed the conditions as including a requirement that no lettering be on the canopy, and that the canopy must comply with the lighting By-Law.

Mr. Becker stated that the new canopy would not emit any light in any direction other than down.

Mr. Yogurtian reviewed the new lighting By-Law requirements.

Mr. Lichauco stated that the hardship alleged in 1993 arose from a need for weather protection. He asked how the weather had changed since 1993. He noted that the hardship problem had been solved in 1993 and asked what is the new hardship existing today.

Mr. Becker stated that the hardship they are presenting was that the current canopy was unstable and that the installation of the larger canopy would solve the delivery problem. Mr. Becker added that solving the delivery problem was critical to the viability of Mr. Fadel's business.

Mr. Lichauco asked the Applicant to explain why it was necessary to install a larger canopy and why a new canopy of the current size with two posts would not work.

Mr. Margosian stated that canopies are prefabricated for a certain size of footing at the bottom. Such a canopy would have to be a custom canopy.

Mr. Smith asked Mr. Yogurtian to explain the regulatory restriction concerning the number of pumps.

Mr. Yogurtian stated that a residential neighborhood does not have any restrictions for the number of pumps and that the By-Law stated that the pump should not be located within 20 feet from the street line. He said that a pump less than 20 feet from the street would need to have another Special Permit in the future.

Mr. Becker stated that the determination of the location and number of the pumps is not part of this application.

Scott Murphy, 346 Trapelo Road spoke in support of the project. He stated that he supports the extension of the canopy and he thinks it would be better looking and safer for the neighborhood.

Debbie Deutsch, 56 Hull Street, appeared before the Zoning Board and expressed her concern about the difficult right-hand turn onto Hull street. She said that Hull Street is narrow and you can't pass anybody coming off of Hull Street onto Trapelo Road. She noted that you have to

wait a long time on Trapelo Road to make the turn and it is dangerous. She also noted that when somebody leaves the gas station, they leave the gas station onto Hull Street. She is worried about the proposal of more pumps because the wait to turn onto Hull Street off of Trapelo Rd. is very long and it is not a safe situation. She added that the traffic is bad as it is and she is afraid it is going to get worse.

John Occhino, 32 Hull Street, appeared before the Zoning Board and stated that he would prefer a delivery off of Trapelo Road because he can hear the noise from the delivery truck from his bedroom. It will improve a lot if they can deliver from Trapelo Rd and it will be less noisy when delivery is in the middle of the night.

Mr. White asked the Applicant what hours gasoline deliveries would be made. Mr. Fadel said that the delivery schedule would be 7 am – 10 pm. Mr. Fadel said that the bigger tank size would reduce the number of deliveries by fifty percent.

Mr. White expressed concern about the possibility that additional pumps may not be approved. He noted that it is a risk that the Applicant is willing to take. He added that if the pumps were installed less than 20' from the street line there would need to be another Special Permit. Mr. White wanted to be sure that the Applicant understood their variables.

Mr. Smith asked if the Applicant had considered a smaller canopy size and perhaps keeping the existing setback.

The Board asked for more explanation as to why the canopy could not be smaller.

Mr. Smith suggested that there would be a lot more design possibilities if they could keep one row of pumps as opposed to creating two rows, it would mean they would have to come back with a new application if it gets turned down tonight. He stated that the Applicant would have to wait two years to resubmit a new application. He suggested amending the current application and coming back to continue the case.

Mr. Becker explained rainwater runoff from the new canopy and that the rain runoff issue will meet requirements. He also explained that the gas station has been there for a long time and Mr. Fadel is willing to do everything he can to respect the neighbors.

Mr. Smith is concerned about the ratchet effect and about relying on the hardship of the Variance conditions that were determined twenty years ago. He recommended focusing on the new application and not relying on the previous Variance.

[The Applicant and his Attorney asked to step outside to have a discussion.]

Mr. Becker returned and stated that Mr. Fadel intends to confer as needed with Mr. Margosian with regards to placement of the pumps and that he would comply with the Town's by-law requirements. He stated that the Applicant would like to come back with an amended application to incorporate all of the issues.

Mr. Yogurtian asked that the Applicant bring in the amended application and have it to the Board by November 22, 2016 and that a Zoning Compliance Checklist to be submitted as well.

Deliberate and Vote:

MOTION made by Jim Zarkadas and seconded by Craig White to continue case to November 7, 2016

Approval of Previous Meeting Minutes:

Meeting minutes are currently under review.

Discussions regarding procedures and submittals:

Edits to procedures and submittal requirements check lists were discussed at previous meeting and are pending edits.

Adjourn 8:03 PM