



TOWN OF MIDDLEBURY

Zoning Board of Appeals

MINUTES

ZONING BOARD OF APPEALS REGULAR MEETING

Wednesday, December 6, 2023 – 7:30 p.m.

Shepardson Community Center

Room 26

Present: Candice Graziano
Robert Marages
Joe Mancini
Bryan Ferrucci, Alternate

Also Present: Curt Bosco, ZEO
Rachel Primus, Recording Clerk

Excused

Absent: Linda Herrmann

Call to Order with the Pledge of Allegiance

The meeting was called to order by Candice Graziano at 7:38 P.M.

VOTED: Unanimously on a motion by Robert Marages and seconded by Joe Mancini to **APPOINT** Candace Graziano as the temporary chairman.

Candice Graziano appointed Bryan Ferrucci as a regular voting member.

Approval of November 2, 2022 Regular Meeting Minutes

VOTED: Unanimously on a motion by Robert Marages and seconded by Joe Mancini to **APPROVE** the November 2, 2022 meeting minutes.

Approval of November 1, 2023 Regular Meeting Minutes

Tabled until next month's meeting.

VOTED: Unanimously on a motion by Joe Mancini and seconded by Robert Marages to **ADD** Executive Session to the agenda.

VOTED: Unanimously on a motion by Joe Mancini and seconded by Robert Marages to **ENTER** into Executive Session at 7:40 PM.

Public Hearing:

Appeal of Decision of the Zoning Enforcement Officer #23-74Z regarding the use of an electronic sign from JSD Partners Southford, LLC – Dean Yimoyines regarding property at 1101 Southford Road.

Candice Graziano opened the public hearing at 7:55 PM. Attorney Michael McVerry, 35 Porter Avenue Naugatuck Ct, representing JSD Partners Southford LLC reviewed with the board that his client received a Cease and Desist in October regarding his electronic sign. He noted that the

regulation that is in question was approved by the Zoning Commission to allow for digital signs in town. The concerned section is 34.13.3, and he read it into the record. Attorney McVerry noted that the sign itself is permanent, and just the bottom portion of the sign is digital and changes. He said that his client had four slides that were on a loop to change every 15 seconds. Dean Yimovines said he paid \$35,000 just for the digital portion of the sign, along with an additional \$35,000 for the sign to hold it. He showed the commission what wording was on the sign. He thinks the issue is that it changed every 15 seconds. Mr. Yimovines said he could extend the time if needed. He noted that since the Cease and Desist was received the sign has been stationary. He explained that he has owned the building since 2014 and since installing the sign people have stopped in and said they had no idea a business was there. He understands why there is concern about the change, he has lived in Middlebury since 1984. He asked what a reasonable time frame for the sign was. Mr. Yimovines noted that the first message he had on the sign was a message regarding the town of Middlebury. Attorney McVerry said he helped draft the regulation with the Zoning Officer Curt Bosco. He noted that the regulation says it can change once a week. The wording says modification on the sign once a week is allowed. Dean Yimovines showed the Commission a video of the sign running. Candice Graziano said the definition section of the regulations states a revision or modification is not a change of a digital picture. The argument is if four or five messages don't change within a week, you are following what the regulations says. Dean Yimovines said when the sign was approved he thought the loop was included in that approval.

Attorney Dana DeAngelo, representing the Zoning Officer Curt Bosco addressed the board. Curt Bosco said he sent a letter in August regarding two different issues, one of which was the sign. He requested a time to discuss it, but there was no formal meeting. He then issued a cease and desist in October. He read it into the record. Curt Bosco suggested that the board read the regulation and asked if they had a different interpretation. He noted his job is to interpret the regulations, but he invites the Commission to read and make their own decision. He said that appealing his decision was done properly. He noted that he was part of the Public Hearing and helped draft the regulation which is limited to the GIDD Zone. He doesn't believe the intent of the Zoning Commission was for there to be a changing sign. He feels it is up to this board to interpret the regulations. Candice Graziano said the regulations say revision every 7 days, but you felt it could change every day? Curt Bosco answered no, but he wouldn't have minded one message a day. The message was changing every 15 seconds. Joe Mancini asked if an application was submitted. Curt Bosco answered yes, a special exception. Joe Mancini asked if it was presented to the Zoning Commission. Attorney McVerry said the site plan was submitted with the digital sign approval. Bryan Ferrucci said the main complaint is the rotation, but is the rest of the sign ok? Curt Bosco answered yes and noted that right now he is in compliance with the one message. Dean Yimovines noted the sign goes off at night because the computer is set to go off around 10 or 11:00 PM. Bryan Ferrucci said the sign is lit all night. Mr. Yimovines said he would look into that and correct it. Curt Bosco said it's easily remedied and suggested one message every 7 days. Attorney Dana DeAngelo presented the January 5th Zoning Commission meeting minutes to the Board. Candice Graziano said she read up on the State regulations for digital billboards. It says the idea is for it to change, but she didn't know what the intent was when they were planning for this sign. Attorney McVerry noted that this was not a billboard, but a sign. Dean Yimovines said this is an inexpensive way to advertise. Bryan Ferrucci asked if the Zoning Commission has done anything regarding this issue. Attorney DeAngelo said no application has been submitted as of now. Bryan Ferrucci suggested going to the Zoning Commission to have the regulations revised. Dean Yimovines noted that he already said he will not change the advertisement as often. Attorney McVerry said there are 6 different uses in that building. A discussion ensued regarding amending the zoning regulation. Curt Bosco said the Commission has the right to interpret their own regulations and the ZBA has

to decide what their interpretation is. He reminded them this is not a variance application, but an appeal on his decision.

VOTED: Unanimously on a motion by Bryan Ferrucci and seconded by Joe Mancini to **ENTER** Executive Session at 8:26 PM.

Candice Graziano said they will leave the public hearing open until the January 3rd meeting.

Old Business

None

New Business

None

Correspondence

None

Adjournment

VOTED: Unanimously on a motion by Robert Marages and seconded by Joe Mancini to **ADJOURN** the meeting at 8:36 P.M.

These minutes are submitted subject to approval.

Respectfully submitted,

Rachel Primus

Recording Clerk

ZBA Members

CC: Town Clerk, Z.E.O.