

The following members attended the public meeting:

Doreen Prouty – Chairperson
James Marmo – Vice Chairperson
Joseph Conte – Clerk
Jennifer Bonfiglio - Secretary

Chairperson Prouty opened the meeting at 6:35PM.

1. Case # 1853: Christopher & Lueen Jodoin:

Chairperson Prouty opened this public hearing by reading the legal notice and introducing the members of the board. Sitting on this case were Doreen Prouty, James Marmo, and Joseph Conte. Chairperson Prouty explained the procedures of the meeting.

Representing the petitioner is Attorney Michael Gove who stated he has already provided a copy of his appeal and request for action. Attorney Gove states that a site plan was approved for 1744 Main Street in April 2008. He cites three site plan violations.

1. Site plan was approved for 23 parking spaces. At the planning Board meeting, Mr. Cirillo was asked what the parking would be used for and he indicated it would be used for the restaurant, not Six Flags. The petitioner believes that parking is limited and all spaces have been used for Six Flags parking. Photos were provided to Board members.
2. Site Plan approves 2 pole lights at the rear of the property. A third pole had been installed and two additional on the side. Lighting should also be shielded and recessed. Petitioner feels this is inadequate. Additional photos provided to the Board which have been taken since 7/15/09. The petitioner noted that additional shielding was ordered by Land Court on 7/10/09.
3. Pea Stone Gravel should have been installed on a portion of the property. The gravel that remains on the property is not what was ordered by Planning.
4. Size and location of parking is also an issue to the petitioner. The property side closest to the Jodoin's should be horizontal. They are not parking according to the plan which allows for significant increase in the # of cars parked. Photos provided to the Board. The petitioner stated that Nick Urbinati advised he sent a letter to address this issue, but it is still not being adhered to.
5. Signs on the front of the property on a pole advertising parking are significantly greater than allowed or over previous years. Some signs that remain have not been approved by the Planning Board. The petitioner feels it is a safety hazard and also a violation. Photos provided.
6. Petitioner believes that there is a residence on the 2nd floor and dogs are allowed access to the restaurant. They have filed a complaint with the Building Inspector who responded by stating that "Mr. Cirillo states that there is no residence on the second floor and dogs are not allowed in the restaurant." The petitioner cannot prove there is a residence, but provides photographs with evidence of a residence. Building Inspectors letter provided to Board. Member Conte researched the issue of the dogs and stated that this issue should come before the Board of Health, not the Building Inspector.

Discussion: Member Conte feels that the issue of the speakers (Item # 23 in petitioner's letter) should be corrected by the Building Inspector. He also feels there is a direct violation of the sign ordinance and feels it should be addressed by the Board. Member Conte feels it is impossible to police the parking area. It is impossible to enforce and illegal to enforce. The Planning Board can only act on what is in the bylaws.

Chairperson Prouty states that her position is that there is an approved site plan and the Board can only enforce zoning issues. Mr. Cirillo should be using this property for the purpose approved, but it is difficult to enforce.

Member Marmo states that the minutes from the Planning meeting state that 23 spaces are for the restaurant and additional spaces for Six Flags parking. They cannot enforce, only recommend.

Chairperson Prouty states that the Shiloh (tree belt) is overseen by the State. She asked if the boulders were removed as requested in a letter dated 8/3/09 from Mass. Office of Transportation which cited violations. . Attorney Gove stated that Mass Highway removed some of the signs, but some still exist. Chairperson Prouty references the letter dated 8/7/09 from the Building Inspector to Mr. Cirillo stating violations of the sign ordinance. Member Conte states Mr. Cirillo has 30 days to comply, which has already passed.

Chairperson Prouty would like a site visit. A letter or call will be made to Mr. Cirillo stating that the Board would like to do a site visit at 11:00 AM on Wednesday 9/16/09.

Chairperson opened the hearing to the public.

Larry Litton, General Manager, Six Flags New England believes the inconsistencies in the Town are appalling. He feels that the building Inspector should enforce the laws. The behavior that the Jodoins endure with parking is appalling. The Jodoins are unknown victims in the parking issue. The signage is out of control. He states that Nick Urbinati states he does not work weekends and that is when it is at its worst. Mr. Litton also asks for clarification on Planning Board site plans. Member Conte states that the Planning Board has the right to make recommendations. They can enforce only what is in the bylaws. If the ZBA accepts it becomes official. Chairperson Prouty states that the Planning role in Agawam is that it is a recommending body. ZBA enforces. Planning does site reviews, not approvals. ZBA is the Special Permit Granting Authority. Planning only makes recommendations to ZBA. ZBA decisions will include site plan approval.

Mr. Litton empathizes with the Jodoins due to the noise, litter, etc.. He feels there is no policing of the area.

Helen Krupczak, 1730 Main Street has a problem with the lighting at Twistys. She states the lights shine into her living room at night. She also hears music all day from the speakers at Twistys.

Jill Messick, Agawam City Councilor, states that everyone has passed the buck on the Jodoins. Conservation has issued enforcement orders, although they have not been able to make a ruling because there is not enough information. If Mr. Cirillo came to Conservation, the parking lot size would not be allowed. Planning has done a site visit. Councilor Messick feels that each department should do their job in this situation. She recommended a site visit with other departments to make observations about violations to help solve this problem.

Councilor Messick also stated that the building inspector will not enforce and the Mayor has stated that she will not enforce the inspector, so nothing is done. Member Conte states that the Council should appeal the Mayor as a body and not individually.

Chairperson Prouty stated that she will note the violations be corrected with a time limit, if not corrected, the Special Permit can be revoked.

Larry Litton indicated Six Flags is closed on Wednesday so it may be fruitless to do a site visit then.

No one speaks against this petition. No response from the Board of Health. Limited response from Conservation. Continue Public Hearing to Tuesday 10/13/09 at 6:30 PM.

2. **Case # 1851: O.M.G., Inc.**

Chairperson Prouty re-opened this public hearing. Member Mercadante will not be present. Member Conte will sit in for him. He has signed that he has reviewed all the documents and minutes of previous meetings. Chairperson Prouty explained that at the last meeting, the Board asked for oven permits and a letter from DEP.

Robert Murphy, Sr. Vice President, O.M.G., 153 Bowles Road and Tad Weiss, O.M.G., 153 Bowles Road are representing the petitioner.

Permit granted from Fire Chief for the ovens and presented to the Board.

Letter provided (LPA) Limited Plan of Approval from DEP recognizing non fuel emissions dated 10/20/05 and another dated 7/8/09 following up on non-compliance. A new LPA was given after the precipitator was purchased.

Chairperson Prouty is satisfied with DEP remarks/response.

No one spoke for or against. Chairperson Prouty closed the public hearing and went directly into a meeting.

Member Conte states that he does not like the stacks but because it is in the Industrial Park and that is the purpose of that park, he is satisfied.

Mr. Murphy suggests the Board should view the site.

Member Marmo states that existing stacks were never approved and wants the Building Inspector to inspect them.

Chairperson Prouty explains that the following condition will be made a part of the decision:

-Stacks built according to plan signed by members of the Board.

-All building and zoning regulations must be met.

-Special Permit must be registered with the Hampden County Registry of Deeds.

Vote Unanimous: Prouty-yes

Marmo- yes

Conte- yes

Mr. Murphy requests a copy of the minutes be sent to him.

3. Motion to accept minutes of August 24, 2009 by Chairperson Prouty, seconded by member Marmo. Vote: unanimous.

4. Motion to adjourn by Chairperson Prouty, seconded by Conte. All were in favor.