

The following members attended the public meeting:

Doreen Prouty - Chairperson
James Marmo – Vice Chairperson
Joseph Conte – Clerk
Gary Suffriti- Alternate
Richard Maggi- Alternate
Jennifer Bonfiglio - Secretary

Chairperson Prouty opened the meeting at 6:30PM.

1. **Case # 1859: Cirillo:**

Chairperson Prouty re-opened this public hearing. A site visit was conducted on March 1, 2010 by Chairperson Prouty and Member Suffriti. Both members are in agreement that the light does shine on the neighbor's property. Member Conte explains that the neighbor should also take into consideration that they live in a business area.

A memo from Attorney Gary Liquori dated March 3, 2010 was read into record which includes a judgment from Housing Court. Member Maggi asks Attorney Liquori if the judgment was based on contempt and is the agreement still binding. Attorney Liquori states yes, he explains that the defendant (Mr. Cirillo) agreed to shield the rear spotlight so it does not shine on the neighbor's property. He also indicates that the judge looked at the agreement and found that Mr. Cirillo was not in contempt.

Mr. Cirillo states that the light preceded his business and he explained to the judge the need for the light. He stated that the judge agreed he had to shield the light. Mr. Cirillo arranged for a standard shield. He agrees that some light does shine on the neighbor although he shuts off the lights at 11PM. He feels he has tried to work with the neighbors at first. He also stated that his own home is next to the Senior Center which has no shielded lights. Mrs. Cirillo states that the neighbor has never approached them prior to filing a complaint and taking the case to court.

Member Marmo advised that the lighting should have been on the first plan. Mr. Cirillo agrees, but did not put it on first plan because he thought it was pre-existing.

Member Maggi asks the Board members if they found the light to be offensive. Member Suffriti and Chairperson Prouty do agree that it does shine on the neighbors property. Member Maggi asks Attorney Gary Liquori if Judge Fields took a view? He stated no, but indicated that photos and video were provided, a mediator did not testify. Abutters Lueen Jodoin and Helen Krupczak testified. Member Maggi states he is unsure what intent was when agreement was made, but cannot question the decision made by the Judge.

Member Suffriti asks for a five minute recess*

Member Conte and Maggi feel that it is difficult to judge Mr. Cirillo's light when Six Flags is not open because it would appear to stand out more. Member Conte asks what differs on the plan. Chairperson Prouty explains that the current site differs from the plan that was originally approved by the ZBA which is why Mr. Cirillo is before the Board. Lighting,

handicapped parking and outdoor seating are not shown. Chairperson Prouty states that Jen Bonfiglio asked for a new plan with modifications and one was not received. Member Conte states that Chairperson Prouty is correct. The site plan should show everything that is on the site since ZBA signed the plan. Chairperson Prouty wants a layout of the plan as it stands now. Member Conte states that Mr. Cirillo is allowed to change the handicapped spaces as long as it conforms to the law. Chairperson Prouty stated that when the Federal restaurant wanted outdoor seating, they too also had to come back before the ZBA. The contention of the Board is that the plan Mr. Cirillo is asking the ZBA to sign needs to be accurate.

Chairperson Prouty closes the public hearing at 7:08 PM, explains the 20 day appeal period and goes directly into a public meeting. Mr. Cirillo has agreed that a new set of plans will be submitted to the Board showing handicapped parking, outdoor seating, and all light. Chairperson Prouty does believe that the light is inadequately shielded, although it is shielded. Member Suffriti states that they have already been to court and the plaintiff had their chance to present evidence to the judge. The judge had found in favor of Mr. Cirillo, so the Board cannot go against the judge. Member Maggi stated that judgment is dated September 2009 which is well within the time business is opened. The judge had the opportunity to hear timely, seasonal evidence and make a timely judgment. There is currently nothing in the Zoning by laws which state what kind of light must be used. It may be in the building code, but that is outside the ZBA jurisdiction. The petitioner could appeal to Nick Urbinati.

Chairperson Prouty calls for a vote with the following conditions:

1. The petitioner shall submit a revised set of site plans showing the locations of the outdoor lighting, handicap parking spaces and outdoor seating as they presently exist. Such plans must be submitted to this Board within 30 days from the date this decision is stamped in at the Agawam Town Clerks office and the board members shall sign the new site plan.
2. Any additional changes to this approved site plan must come back to this Board.
3. Outdoor speakers for the purpose of music are to be mounted at the front of the building and directed towards the street. Any speakers for the use of indoor employees must be directed inward. The volume of such music must conform to the Agawam Noise ordinance.
4. The petitioner shall either use asphalt paving or gravel/trap rock dust to resurface the parking area.
5. This special permit shall not be in effect until the applicant shall record with the Hampden County Registry of Deeds a "Notice of Special Permit" form, which shall be provided by this Board and proof of said filing must be submitted to this Board and to the Inspector of Buildings.
6. This special permit shall become null and void if construction does not commence within two (2) years from the date this decision is stamped at the Town of Agawam Clerk's Office.

Vote: Suffriti-yes

Conte-yes

Prouty-yes

Unanimous, Closed at 7:20PM

2. Motion to accept minutes of February 22, 2010, 2010 by Chairperson Prouty, seconded by member Marmo. Vote: unanimous.

3. Discussion: Letter from Mayor concerning budget. Chairperson Prouty will speak with him in person.
4. Discussion: Six Flags is putting up a building 40' tall near the sound wall which was approved in 2001 by the ZBA. Members feel that since the site plan will change, Six Flags has to come back to amend their special permit.
5. Motion to adjourn at 8:00 PM by Chairperson Prouty, seconded by Member Marmo. All were in favor.