
Members Present:

Doreen Prouty – Chair
Richard Maggi – Vice Chair
Gary Geiger – Clerk
Aldo Mancini - Alternate
Vincenzo Ronghi - Alternate

Members Absent:

Chairperson Prouty opened the meeting at 5:30 PM:

A. 5:30 PM – PUBLIC HEARING – SPECIAL PERMIT – 270 Main Street – Muradbek Usmonov – Case #1991

Chairperson Prouty opened the public hearing by reading the legal notice, explaining the procedures of the hearing and introducing the members of the Board. Sitting on this case were Chairperson Doreen Prouty, Richard Maggi Vice Chair, and Gary Geiger Clerk.

Petitioner Muradbek Usmonov was present to present an application for a Special permit from the Town of Agawam’s Zoning Ordinances, Chapter 180, Section 55B to be allowed to park 8 car carriers on the property from Friday until Monday at the premises identified as 270 Main Street. Also present was Wei Ni, owner of the property, who brought a letter of authorization.

Chair Prouty stated that a certified copy of the deed was never received by the Zoning Board.

Mr. Usmonov explained that he wants to park 8 - 3 car haulers on the property on the weekends. Each truck is 65 – 70 feet long and 11 feet high. Mr. Mancini asked if the trucks would be using the exit on Cooper Street and Mr. Usmanov answered yes they would be.

A phone call was taken from Matthew Moretti of 11 Fairview Street. Mr. Moretti expressed concern about the type of trucks, the noise and the fumes emitted while idling. Mr. Usmanov said that they would only be using pick-up trucks with trailers, no semi trucks or tractor trailers. Eugene Corja of 1345 Ridgeway Blvd, Suffield was present with the petitioner and stated that the pick-up trucks use diesel fuel but will only be idling for 15 to 20 minutes. Mr. Moretti also said that when the trucks are turning left onto Cooper Street there is no visibility for the cars traveling on that street.

A phone call was received at the planning office from Dan Mancini of 39 Cooper Street stating that the trucks using the Cooper Street exit are very loud and start very early in the morning and run until very late at night, waking his family. He went on to say that the trucks create a lot of traffic on Cooper Street and he feels it is dangerous for the residents getting in and out of their driveways and also creates a danger for the children in the area as the trucks are often going quite

fast. Mr. Mancini feels strongly that the trucks should exit onto Main Street only, not Cooper Street.

Mr. Ronghi addressed the issue of the trucks being left idling and noted that during the winter they will be idling to keep the diesel engines warm. Another point was the unregistered vehicles being left on the carriers. He cited Chapter 180 – 60 of the Municipal Code which states that no more than one unregistered vehicle can be on any parcel at any time unless they have a used car license. Ms. Prouty asked Mr. Ni, the owner of the property, if he was intending to subdivide and sell part of the property. He said yes, he is. Mr. Maggi asked Mr. Ni if Mr. Usmonov paid him to park the trucks there and he said yes. Mr. Maggi then referred to Chapter 180 – 17 which states that activity for gain is not a permitted use. Also Chapter 180 – 37F states that all off street parking is for 24 hours or less otherwise it becomes a trucking terminal which our code does not allow. Ms. Prouty expressed concern about adequate parking for the two businesses currently operating in the building and noted that if a piece of the parcel is sold there would be even less parking for them. Mr. Mancini noted that when the flea market was in business on the site there was no exit onto Cooper Street and perhaps this could be placed as a condition. Ms. Prouty explained the 20 day appeal process. She closed the public hearing and opened the public meeting.

Eugene Corja asked if the trucks would be able to enter from Cooper as they do not have the room to turn around in the parking lot. Mr. Mancini advised that the problem of visibility exists whether entering from or exiting on to Cooper Street. Mr. Ronghi suggested that the Agawam Police Department do a report on the situation. Mr. Maggi reiterated that the parking of the trucks at this location is in violation of code 180- -37 and 180 – 17. Mr. Geiger said that due to the issue of unregistered vehicles being parked overnight and the danger of using the Cooper Street exit the Special Permit should not be granted. Ms. Prouty agreed that it should be denied because the use is not incidental to the existing businesses located on the premises, the unregistered vehicles on the property and the lack of ample parking.

Ms. Prouty called for a vote to deny the Special permit for 270 Main Street to park car haulers on the premises subject to the reasons quoted during the meeting.

Prouty, Maggi and Geiger individually voted to deny this permit.

VOTE 3 – 0 Denied

Ms. Prouty reminded the petitioner of the 20 day appeal process.

Motion was made by Mr. Ronghi and seconded by Mr. Maggi to suspend the order of the Agenda and approve the minutes of the February 24, 2020 Zoning Board meeting.

Prouty, Maggi and Geiger individually voted to suspend the order of the Agenda.

VOTE 3 – 0 In Favor

F. Approval of Minutes for February 24, 2020

Motion was made by Mr. Ronghi and seconded by Mr. Geiger to approve the minutes as written.

Prouty, Maggi and Geiger individually voted to approve the minutes as written.

VOTE 3 – 0 In Favor

B. 6:15 PM – PUBLIC HEARING – SPECIAL PERMIT – Lutvija Katica – 27 Liberty Street
– Case# 1992

Sitting on the case are Ms. Prouty – Chair, Mr. Mancini – Vice Chair, Mr. Ronghi – Clerk

Mr. Asmir Katica of 3 Beekman Place, co-owner of the property spoke saying that they bought the lot at 27 Liberty Street to build a single family home, either a raised ranch or a colonial up to 2500 square feet. Ms. Prouty said the lot is non-conforming due to the square feet of the property. When the original house was built it was legal but the law has changed. Currently the lot size would have to have a total area of 20,000 SF to be conforming. The lot has 19,350 SF so it is 650 SF short. Mr. Ronghi noted that it is one of the largest lots in the neighborhood. Mr. Maggi asked if the lot was empty. Mr. Katica said yes but there had been a house on it previously. The Board went on to hear from the public via phone calls on the case. The first was from Brandon Richard of 20 Oak Lane. He would like to be sure that only one single family home will be built on the property. Ms. Prouty stated that this will be a stipulation if the Special Permit is granted. The second call was from Nicholas Alman of 30 Liberty Street. He would also like to be sure that only one single family home will be built on the property. He said that in a conversation with Mr. Katica, he had said he was an investor and planned to put one or 2 either single family or duplexes on the property. He also asked if the house would be big enough to accommodate renters. Ms. Prouty said they cannot build duplex but have applied to build a single family residence for their family. She went onto say that the Zoning Board cannot control how many people live in the dwelling but can stipulate that only a single family dwelling can be built. Mr. Alman said he was okay with the project as long as it is stipulated that only a single family dwelling can be built. The Board also heard from Frank Andrus of 16 Liberty Street. He is also concerned that only a single family dwelling will be built on the lot. Currently the vacant lot is an eyesore. If the owner builds, it will improve the lot and he is okay with the project as long as it is stipulated that only a single family dwelling can be built. Mr. Andrus also sent an email to Marc Strange, the Director of the Planning Department expressing the same views as his phone call. Mr. Katica asked that if the permit is granted, please allow him time to secure financing and build the house. Ms. Prouty let him know that the Special Permit would give him three years to get the project started. She then went onto explain the Appeals process, closed the public hearing and opened the public meeting.

Motion was made by Mr. Ronghi and seconded by Mr. Mancini to grant the Special Permit for 27 Liberty Street with the stipulation that only a single family home can be built.

Prouty, Mancini and Ronghi individually voted to grant the Special Permit.

VOTE 3 – 0 In Favor

C. 6 :45 PM - PUBLIC HEARING – APPEAL – Aleksandr Chuduk, dba BBB Auto Inc. –
266 Walnut Street – Case# 1995

Sitting on the case are Ms. Prouty – Chair, Mr. Maggi - Vice Chair, Mr. Geiger – Clerk

A court reporter was present, hired by the petitioner, to record the hearing in its entirety. Also present representing the petitioner was James Ferrara, 33 Palmira Street, Springfield, Ma 01118. Mr. Chuduk was present as well.

Mr. Ferrara began by stating that Mr. Chuduk is requesting an appeal of the decision of denial of certificate of use made by the Agawam Building Inspector. He went on to say that he has owned the property since 2012. He has paid all taxes on time, has invested in, improved, maintained and enhanced the neighborhood. The reason he is requesting relief from the decision at this time is he is looking to expand and develop the parcel. In September of 2019, the Agawam Planning Board approved a site plan for auto repair at the facility. Now he would like to further the business by selling used cars. Mr. Chuduk has applied twice for a Class 2 license with the town. The Building Inspector said the use was not appropriate for 266 Walnut Street as it is zoned Business A. Mr. Ferrara stated that of the 22 total used car dealerships in Agawam, 60% are in a Business A district. He has been in touch with town officials and Boards to determine what zone would be appropriate for a class 2 license and feels that the town has no designated zone for class 2 licenses. He then cited 2 court cases related to class 2 licenses. He went on to say that municipalities cannot put a “cap” on the number of class 2 licenses a town may have. He feels it is unconstitutional and could be a violation of civil rights. He said that Mr. Chuduk is an immigrant and a hard worker. He said that he also has another business in town. There is a slight language barrier he said but described him as respectful and honest and wants to expand his businesses. Mr. Ferrara summarizes by saying that Mr. Chuduk is seeking relief from the denial of the certificate of use from the ZBA.

Ms. Prouty reiterated that Mr. Chuduk received site plan approval in September of 2019 from the Planning Board for auto repair of not more than 50 cars. The ZBA does not have the authority to overturn City Council decisions on licensing. The Zoning Board of Appeals is here to decide if the decision of the Building Inspector concerning use was incorrect and has nothing to do with licenses. The ZBA’s one focus is on the Building Inspector’s decision. Mr. Geiger and Mr. Maggi agreed that the ZBA does not give licenses.

Ms. Prouty received a call-in from Setta McCabe of 252 Walnut Street. She stated that she is an abutter to 266 Walnut Street and is against the appeal citing that the area is primarily residential and should stay that way. She feels that the property values will diminish if the appeal is granted. In response to Ms. McCabe, Mr. Ferrara said it would not diminish property values as they are not asking for a zone change. He said that this is their last attempt before filing civil action.

Ms. Prouty explained the 20 day appeal process. She then closed the public hearing and opened the public meeting. Mr. Geiger said that the ZBA should follow the town’s rules and support the Building Inspector. Used car sales are not allowed in a Business A district. Mr. Maggi added that the ZBA does not deal with licensing issues. They must deal with the City Council and the courts. Ms. Prouty agrees and feels that the Building Inspector correctly denied the business use application based on By-law 180 – 44D. The chairperson called for a vote to deny the petitioner’s request to overturn the Building Inspector’s decision,

Prouty, Maggi and Geiger individually voted to deny the appeal.

VOTE 3 – 0 Denied

Ms. Prouty reminded the petitioner of the 20 day appeal process.

D. & E. 7:30 PM – PUBLIC HEARING – VARIANCE AND SPECIAL PERMIT - - Cellco dba Verizon Wireless – 128 Southwick Street – Case# 1993 & 1994

Sitting on this case are Ms. Prouty – Chair, Mr. Maggi – vice chair, Mr. Geiger – clerk

Chairperson Prouty began by explaining that Verizon Wireless has two separate applications that will be heard together but voted on separately. Two separate decisions will be rendered. Case# 1993 is a Variance from the Town of Agawam Zoning Ordinances Chapter 180, Section 97K to allow for construction of a telecommunications tower with less than the required distance from the base of the tower to other building on the property. Case# 1994 is for a Special Permit from the Town of Agawam Zoning Ordinances in accordance with Chapter 180, Article 14 which will allow for the construction of a wireless service facility at 128 Southwick Street.

Speaking on behalf of Cellco dba Verizon Wireless is Attorney Michael Fenton of Shatz, Schwarts & Fentin of 1441 Main Street, Suite 1100, Springfield, MA in it's request for a special permit and associated variances to erect a 115 ft. monopole wireless communications tower at 128 Southwick Street, The Agawam Municipal Golf Course. In late 2019 Verizon entered into a lease with the Town of Agawam which was approved by the City Council and Mayor Sapelli. There will be a 115ft. tall tower and an equipment pad running along Christopher Johnson Drive. The lease is for a five year term with four subsequent five year renewals. The lease provides for free space at the top of the tower for the town's equipment which is usually for public safety like police and fire, in addition to the rent payments paid to the town. The Variance requires all buildings that are regularly occupied to be one and one half times the tower height from the tower. These would include the club house and two maintenance sheds. Mr. Fenton went on to say that the tower is pre-engineered to collapse on itself. The property is already in the telecommunications overlay district so it has been identified by the town as an appropriate site for telecommunications. Verizon conducted a balloon float on July 6th showing a very minimal visual impact across the town. Mr. Fenton added that they have received a positive review from the town's consultant, Dave Maxson, a positive recommendation from the Golf Course Commission, they submitted a letter of support from the Agawam Fire Chief and Mr. Fenton attended a very positive Team Meeting with several Agawam officials. On July 2nd, the Agawam Planning board voted to continue the site plan review until the balloon float had taken place.

Mr. Greg Sykier, engineer with Chapel Engineering Associates, 201 Boston Post Road, Marlboro, MA, who is representing Verizon Wireless, presented the site plan and spoke about the specifics of the site and the compound including the use of underground power services. He noted that the compound is in a fenced area with green hedge-type privacy slats on all four sides. On the east side of the compound is the parking lot and the woods on the west side will mask the equipment compound.

Ms. Prouty discussed the report received from Dave Maxson of Isotrope, the town's consultant. In his comment pertaining to the town by-laws 180 – 96, he is satisfied that Verizon Wireless has proven that repeaters cannot be used. In the next paragraph he states that the applicant has provided FCC licensing, FAA analysis and energy frequency safety analysis. With this documentation, the petitioner has complied with regulation 180 – 96B. The report spoke about the general requirements for 180-97, camouflaging, which is referring to landscaping. To satisfy 180 – 99, the tower must be in the wireless district, there be no other viable sites, no undue impact on various resources to be determined by the Board, all reasonable measures be taken to mitigate

potential adverse impacts, must comply with FCC regulation 96 – 326 regarding radio emissions safety, and must comply with the Telecommunications Act of 1996. Mr. Maxson made note that there is written substantial evidence to back up a denial. Under regulation 180 – 100, removal requirements, it is in the town by-laws that a cash bond is required therefore must be done.

Mr. Ronghi asked Mr. Fenton for the dates that he went before the City Council. Mr. Fenton made note that this proposal has been presented in a public manner on more than one occasion. He then asked why the WWLP towers are not a viable option. Mr. Fenton explained that because of the overwhelming demand for data and voice coverage it requires infrastructure to be built on a square mile basis. The WWLP towers are topographically higher but not the most desirable for the coverage needed for the significant current and future demand. Mr. Maggi asked if the construction will interfere with the usability of the golf course. Mr. Fenton is not aware of anything that would impact play except for the temporary inconvenience from parking during construction. Mr. Maggi asked for the proposed start date of the construction to which Mr. Fenton said they will work with Mr. DiRico, manager of the Golf Course, the town and the Golf Course Commission. A definite date cannot be given as there are many groups to go before and apply to before construction can begin.

A call-in was received from Daniel Loughlin of 29 Forge Street who expressed concern with the tower being in a residential area. Mr. Fenton said that in terms of alternate site locations, Verizon conducts extensive research and surveys before the application process begins. Based on coverage, this is the only feasible location. Ms. Prouty went on to say that the town hired an independent consultant to look at all of the information provided by Verizon and after much research he agrees that this is the proper site for Verizon's proposal. The town created the overlay district which determined where cell towers are allowed to be built. Mr. Fenton said that to increase the capacity coverage which is restricted to this general vicinity they can not consider any other sites in the overlay district. Mr. Mancini asked if Verizon had approached any farmers concerning the proposal to which Mr. Fenton replied that Verizon Wireless has site acquisition professionals that have reached out to various residents and some of which may have been agricultural but no sites were considered as a viable solution to the capacity issue.

Ms. Prouty said that she was not ready to make a decision. She would like the Planning Board's site approval to be done before a decision is made. The members agreed.

The hearing will be continued to Monday, July 27 at 6:30pm at the Agawam Senior Center.

Mr. Fenton requested using the Veterans room for the use of audio/visual equipment.

G. Discussion of any topics that the Chair did not reasonably anticipate – none

Motion was made by Mr. Maggi and seconded by Mr. Geiger to adjourn at 8:55pm.

Meeting adjourned at 8:55pm

Submitted by Hope Goff

