

## Great Barrington Zoning Board of Appeals

Minutes of Nov. 1, 2011, meeting.

Attending were Chairman Ron Majdalany, members Kathy Kotleski and Michael Wise and alternates Don Hagberg and John Katz. The meeting opened at 7:30 p.m. at Town Hall. Dr. Majdalany appointed Mr. Hagberg and Mr. Katz to sit as regular members.

The secretary read the notice for the public hearing on **Cumberland Farms'** appeal of the building commissioner's denial of a sign permit. The hearing notice was mailed to abutters, twice advertised in *The Berkshire Record* and was posted in accordance with requirements at Town Hall.

Carolyn Parker, on behalf of Cumberland Farms, said the company wants to replace an existing 4x6 pylon price sign with a new one that would have scroller-controlled numerals on film that could be reset from inside the store or from corporate headquarters. The mechanism would adjust only the numbers for prices. The numbers would be lit from the interior.

Jenny Clark of Great Barrington urged the board to keep copies of what is proposed, so it can be monitored. She said she was concerned about illumination. The chairman said materials submitted will be part of a permanent record. John B. Hull said price signs are important to consumers.

The ZBA was in receipt of two letters. The Planning Board said a strict reading of the bylaw would mean denial of the appeal petition, but offered an alternative way for the applicant to gain remedy. The Selectmen declined comment.

ZBA member Mr. Wise read the two applicable sections of the Great Barrington Sign Bylaw (as amended May 2, 2011):

**ANIMATED SIGNS:** A sign that uses movement, or the illusion of motion, moving images or changes of lighting to depict action or create a special effect or scene. Animated signs are prohibited in all districts.

And

**ELECTRONIC MESSAGE SIGN OR CENTER:** An electrically activated sign whose variable message capability can be electronically programmed. The copy can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display. These signs are prohibited in all districts.

All board members found the Animated Signs section did not apply. All members found that strictly speaking, the proposed sign is electronically activated/changed but otherwise is not moving. Members found that the bylaw's wording appears intended to regulate displays with continuously running words or images. The proposed sign has only changing numerals, no changing letters or words, Mr. Katz pointed out. The existing sign already has numbers that are changed manually. Mr. Hagberg said the building commissioner, Ed May, properly sought clarification of the new bylaw, and the ZBA needs to determine the intent.

The hearing closed at 8:47 p.m. on a motion by Ms. Kotleski, seconded by Mr. Hagberg and voted unanimously.

Mr. Katz moved to allow the appeal as the proposed sign does not fit within the sign bylaw's definition of electronic message sign or center. Mr. Hagberg seconded. In discussion, Mr. Wise asked if this position by the board raised an issue with a fire department request, at the last town meeting, for an electronic sign in

front of the fire station. Dr. Majdalany and others said that sign would have had changing or moving letters/words, and was different from this price sign. Mr. Wise said he was somewhat troubled by the ability of Cumberland Farm's main office to be able to change the price many times a day. Ms. Parker offered to provide a letter from Cumberland Farms to the point that 90 percent of the time changes are made only once a day. The vote was unanimous in support of the appeal.

In old business, the secretary reported:

- The Bell v. Great Barrington Zoning Board of Appeals trial will likely begin in December.
- Members discussed a level-funded ZBA budget for FY 2013, and agreed after the secretary reported the town has a separate account for town counsel services.
- In response to a request from the town manager, the secretary said the ZBA's application fee has been \$150 for several years, and that fee generally covers his hours plus the cost of newspaper posting. Exceptions are when there are prolonged issue that require the services of town counsel. The board will consider the fees at a future meeting.
- Acknowledged receipt of a report from the Massachusetts agency that supervises affordable housing.

Respectfully submitted

Bernard A. Drew

A handwritten signature in cursive script that reads "Bernard A. Drew". The signature is written in dark ink and is positioned below the typed name.