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**From:** "Lynne Eckardt" <midfarm@bestweb.net>  
**Date:** Sat Nov 26, 2005 5:05 pm  
**Subject:** SE ZBA Meeting Recap 11/21/05

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Hi All,

Last Monday, as has become one of my numerous bad habits, I attended the Zoning Board of Appeals meeting. There were three items on the agenda of interest and those are all that I'll be reporting on.

As always, this is my favorite Board in town and apparently everyone else's too. Dick Honeck came (albeit late) and Town Attorney Willis Stephens was there although not seated up front. Wow- the ZBA! The hottest ticket in town.

It's a rare night when attorney Richard O'Rourke doesn't get what his clients are after. In this case he didn't and for good reason- check out number 6. Finally the long, tortured saga of the Landau variance is over. I should add that, although Mr. O'Rourke and I are continually at odds, he is an excellent attorney. There, I've said it, I feel better.

And direct from the department of 'sketchiness' it turned out that the Suozzi commercial application re. parking needed all new schedules and (surprise!) needs a variance no matter what plan is adopted. Jeeze.

One of the best parts of attending these meetings are the local residents I meet. Michael Kivil really went to the mat for his neighborhood on the Mallory Kotzen sign and is a nice guy to boot. Kudos, Mr. Kivil!

You all know I'm a complete fool for anyone remotely amusing and the woman sitting in front of me was priceless. While we were on break she cheerily informed me that she and her partner had renamed me 'The Grim Reaper' as everything I questioned had been denied a variance. I assured her I almost never address any projects that are what I consider 'neighborhood issues' and in more than a few (ok, most) cases my observations are completely ignored. She heaved a visible sigh of relief and was even happier when I packed up to leave before her addition was on the agenda.

As is customary the opinions expressed are my own quirky, caustic and cynical take on life in Southeast. They represent no one's thoughts but my own.

**AGENDA:**

**1. Mallory Kotzen Tire, North Brewster Road**

The applicant had received a sign variance (10' wide by 6' high) several years ago but had never erected the sign. After the sign moratorium they were still allowed the granted variance but now seek a height variance. The new allowable height is 8' the applicant was seeking 14 and a half and later asked for 12'.

Two neighbors asked that the sign height be limited as the dealership is in a residential

neighborhood. Michael Kivel had brought a petition signed by neighbors requesting a height limit.

Board member, Tim Froessel, mentioned he had spoken to Councilman Johnson on the train and Mr. Johnson had asked that the sign conform to new regulations. Paul Vink said that he had spoken to Councilman Honeck who had asked the same. And Chairman Colello had spoken to Supervisor Dunford who echoed the two councilmen's sentiments. Willis Stephens made several observations regarding whether or not any variance given would supercede the seven year amortization.

I said that the Board now had an opportunity to protect a residential area by making the new sign conform. I said that 12 feet was too high. Chairman Colello said that 'You'd think 7'9" was too high'. Mr. Colello and Mr. Vink were comfortable with the 12 foot compromise as then the sign could be seen from Route 312.

Board member Costello thought that the height should comply with the new regulations.

The Board voted 4 to 2 to deny the height variance. Colello and Vink voted against the denial.

#### **4. Andrew Suozzi, 4005 Route 6 East Danbury Road**

Bibbo Associates- Engineer

This is a 125' by 40' two story building that will have retail on the main level and office space above. A variance is needed for the parking. According to the applicant there was more impervious surface in the first plan that did not need the variance. There would be the same amount of parking.

I asked what percentage of impervious surface would be reduced under the variance plan. The engineer wasn't sure but when the 'tables' on both plats were read it turned out that they were identical. And it turned out that either plan would need a variance unless the building size was reduced.

I asked the Board to put off any decision until the tables were corrected and it was ascertained exactly what did and didn't need a variance. Chairman Colello agreed that the plans were incomplete and the applicant needs to update them and come back before the Board.

#### **6. Vivian Landau, Joes Hill Road**

Chairman Colello had recused himself as he owns land across the street.

The applicant's attorney, Richard O'Rourke, explained that the Landaus could have gotten 5 lots out of this property but decided to go with four. They were seeking a variance so that one property would have no road frontage. There are wetlands and a mature stand of spruces that make putting in an additional driveway difficult and not environmentally sound.

There was talk about the spruce and how a variance would save them from the possibility of a future driveway.

Paul Vink asked if this could be resolved by settling for a 3 lot subdivision. The answer was yes. Mr. Costello asked if this could be done without a variance. Again a yes. Chairman Colello spoke and said that he had determined that the variance was probably the best way to go.

I said that no matter whose property the spruce ended up on they could still be cut down as Town of Southeast still has no tree ordinance in effect. I also mentioned that there was a member of the Planning Board who was less than thrilled by the possibility of a variance.

Two separate motions were made to deny the variance one passed by a vote of 5-0. the second was passed by a vote of 4 to 1. Variance denied.

#### **COMMENTS:**

##### **Mallory Kotzen Tire:**

Due to the large size of the sign (10' X 6') there wasn't much wiggle room here. This size sign will look ridiculous only 2 feet off the ground but still, I think the Board was dead-on denying this variance- I haven't the foggiest why Mr. Vink and Chairman Colello wanted this sign to be visible from Route 312. Yuck. North Brewster Road is primarily a residential neighborhood so that anything done to limit the commercial nature of the retail outlets here should be encouraged.

I found it interesting that, according to Town Attorney Willis Stephens, businesses still have seven years to conform to the new sign regulations- especially since this law was enacted about a year ago.

And what's with the Town Board suddenly throwing their weight around asking that the new sign code be enforced? I wasn't sure whether they all suddenly 'got religion' or if it was because the sign is in Councilman Honeck's back yard. Oh well, I'll live for the day they try this approach with the Conservation Commission concerning wetland buffers.

Hopefully the Mallory Kotzen company will rethink the size of this sign since they are now limited to the eight foot height. By the way, I actually bought new tires after this meeting and they couldn't have been more accommodating and professional.

#### **4. Andrew Suozzi:**

This was really the horror of the evening and makes me wonder if the schedules used on plats are ever truly accurate. Just the fact that this project needs a variance no matter what is pretty indicative of the incomprehensible disconnect between our local boards.

The applicant definitely favored the better of the two plans but (and it's a big 'but') it seems that if the building were reduced in size neither variance would be necessary.

I say 'reduce'. Do we really need another run-of-the-mill, undoubtedly 'stucco encased', completely nondescript retail/office space as the first building greeting you as you cross the CT. border? In the thank-God-for-small-favors department I suppose we should be jubilant it's not warehouse/office.

#### **6. Vivian Landau Subdivision:**

Gosh, our long local nightmare is finally over. Although I will miss Chairman Colello and Mr. O'Rourke going mano a mano. I thought Mr. O'Rourke seemed totally worn out and resigned to this outcome. I mean, when he's not snippy to me you know something's amiss. Also, he and Town Attorney Stephens were really confabing up a storm in the hallway before hand...

I was glad we finally got to dispense with the great Spruce 'smokescreen'. Really guys, come back and talk to me when you get serious about a local tree ordinance.




Kudos to Mr. Froessel (who had really done a lot of homework), new member Paul Vink who again mentioned the possibility of a three lot subdivision and Tom Costello (the voice of reason) for being his calm, logical and kind self.

I've mentioned before that the Landau's seem like very nice people- I'm hoping that they'll simply add frontage to this one lot and move on.

Whoa, three for three. Did I mention I love this Board? Yeah.

That's it from here. I hope everyone had a wonderful Thanksgiving and enjoys what's left of this frigid weekend. Feel free to e-mail me with any questions or comments you may have.

With Warmest Regards,  
Lynne Eckardt

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