

MINUTES CASE #21-17 – IRVING OIL CORPORATION

MONDAY, SEPTEMBER 25, 2017 AT 7:45 P.M.

Casavant: Opens meeting by reading notice as it appeared in the Pembroke Mariner and Express and reads email from Robert W. Galvin, Esq., attorney for Irving Oil Corporation requesting a continuance of the hearing and asks Board Members for a motion.

Griffin: I make a motion at the request of Irving Oil Corporation to continue Case #21-17 to Monday, October 23, 2017 at 7:30 p.m.

Gallagher: Second.

Casavant: All in favor.

Griffin: Aye.

Gallagher: Aye.

Casavant: Aye.

Motion carried.

Hearing adjourned until Monday, October 23, 2017 at 7:30 p.m.

MONDAY, OCTOBER 23, 2017 AT 7:45 P.M.

Casavant: Re-opens hearing of Irving Oil Corporation and turns the floor over to their attorney, Robert W. Galvin, to present their petition.

Galvin: Introduces the members present of Irving Oil Corporation to the Board and explains to the Board what the businesses in New England of Irving Oil Corporation consists of.

The properties in this petition consists of three properties, 5 Schoosett Street, 11 and 15 Schoosett Street which is a combined site and 92 Washington Street. Each of which are in separate ownership. Each are non-conforming as to lot area in the Business B District and are in the North Pembroke Historic District. Have buildings and structures containing numerous dimensional non-conformities.

We're making an application today to combine the three properties in a triangular shape which contains just over 50 percent of the required lot area for a developable lot in the Business B District and are proposing to develop a gas station and a convenience store. The convenience store to be about 3600 sf. We've met with the Historic Commission and have received a certificate of appropriateness and a demolition permit in August.

The zoning relief we are requesting are a special permit to operate a gas station/convenience store in the Business B District. We've asked for a special permit in relation to alteration/extension of a non-conforming uses or in the alternative we've asked for several variances as combining these three lots doesn't get us close to the required lot size. I've represented many gas stations, restaurants, etc. in this District in the past. None of the

gas stations in Business B comply with the lot size of Business B and its dimensional requirements.

I am now going to give the floor to Mike McLaughlin who is the real estate manager for Irving Oil. Also with me tonight is Mike Coffman of Coffman Realty, Frank Montero from MHF Design, Heather Monticup from Greenman-Peterson GPI, and Jennifer Daigle, who is also a project manager.

McLaughlin: We're a family run company, privately owned, started in the 1920s up in New Brunswick, Canada, and up there now we have a refinery and are the largest refinery in Canada. We now have about 900 locations that sell fuel, and we're producing about 320,000 barrels a day, half of which is exported to the Northeast. We sell both branded and unbranded gas. We produce gas, diesel, jet fuel, heating oil, every kind of derivatives of oil. We take pride in the fact that our stores have very clean bathrooms. We're a company that takes pride in what we do.

Monteiro: We're the site engineers and surveyors for the project. We submitted two plans to you, an existing site plan and a proposed site plan. There are three existing parcel which are proposed for this development. All are non-conforming as to size, setbacks, pretty much everything. It's an odd shaped 45,000 sf lot. The other challenge is the shape of the lot. Typically we would develop on a square or rectangular lot. Thus, it's a little bit of a challenge to get site plan to function properly. In addition to that we have quite a bit of topography between the two extremes of the lot. Goes on to review the history of uses of the lots. Under our proposal all of the existing buildings will be demolished and redeveloped into what is shown on this plan. Due to the shape of the lot we've chosen to locate the canopy on the Washington Street side of the lot and that was important to the Historic Commission and that places the convenience store directly behind the canopy with parking directly in front of the store. Based on the layout and the access and our process with Mass Highway, we started with five driveways on the site and are proposing to go to three driveways. On 53 we're closing the driveway closest to the intersection. We have one access to the site on 53 that is as far away from the intersection as we can locate it. Mass Dot has restricted our access on 139 to one way in and one way out. With this parcel we have two front yard setbacks. What we tried to do is put the canopy and building as far back from the street as we could yet maintain safe circulation at critical areas based on our experience with gas station operations. We started with a 4350 sf convenience store and reduced it to 3600 sf to allow us to get the parking. The canopy has five dispensers, which allows ten vehicle fueling pumps. On the back side of the building we have a trash enclosure. Reviews the grading plan which will go to the Planning Board. The layout was guided by the grade difference.

Gallagher: Is the tank location critical as it is located at the intersection of two busy state routes. Could the tank be located further back?

- Monteiro: Good question. Goes on to explain that due to the curbing and height of this site it is the best location for the tank. Also it's the best location for the tanker for refilling as he's not in the way of people filling, traffic flow, parkers. We did an traffic access study
- Gallagher: I was just wondering, do you need 10 bays? Could you get it down to 8 and move the tanks away from the intersection?
- Monteiro: The 5 dispensers is important to the business case for this project. This is certainly not the biggest site that Irving's built. It does need a certain amount of thru put to substantiate the investment.
- Gallagher: Again, why do you need 5 dispensers?
- Monteiro: Based upon the anticipated volume that they project for the site that is the number of dispensers needed. If you don't have the correct number of dispensers, that's where you start having lines and impeding the efficiency of the site.
- Gallagher: As far as the parking spaces, it seems very limited to me.
- Monteiro: The parking requirements are over done in terms of this type of use. Typically we would have 25 spaces for this type of use. It's quick service in and out. 15 spaces at the store and 10 spaces at the pumps. Your zoning requirements would require 38 spaces.
- H.Monticup: We are the traffic engineers and we met with Mass State as this project is on two state highways, Routes 53 and 139. We knew in advance that we needed an access permit for the driveways from DOT. There are five driveways today and we're taking that down to three. We did a traffic and access study, it's dated June of this year. It was submitted to the Town and also Mass DOT with an application for a permit to access a state highway. We got comments on that over the summer and we responded on that last week. One of the major comments that you see from this plan that they wanted was that this driveway be right in and right out. The rest of their comments were minor regarding drainage etc. We're waiting for the access permit at this point.
- Galvin: The list of zoning relief seems unduly long, but when you're working with sites with as many non-conformities as these three sites do, it becomes quite complex. The zoning chart on the plans explains we're improving the site as a whole. 92 Washington Street contains 11% of the required area of a building lot in Business B District. 5 Schoosett Street, which is the site of the former gas station, contains 18% of the required lot area, and the last property which combines 11 and 15 Schoosett Street contains 20% of the required lot area. Combined these lots will contain 50% of the required lot area. From our prospective that reduces significantly the non-conformity of the lot area. The minimum setbacks of Business B are 60 feet from the front and these buildings are all located within that setback. All of the buildings are non-conforming as to side yard and rear yard setbacks. The proposed building will reduce that non-conformity. 92 Washington Street is all impervious, 5 Schoosett Street is approximately 75% impervious and the largest lot is around 65% impervious. All exceeding the 60% lot coverage requirement. None of the properties meet

the minimum landscaping requirement. In our analysis based on the plan we're reducing all these non-conformities and we have a description of all the requirements that we don't meet which are lot area, lot frontage, front, side and rear yard setbacks, required number of parking spaces, landscape buffer, open space requirements.

When you're permitting a project like this in the historic area, you always go the Historic Commission first because they have the authority to require setbacks that are more stringent and has the ability to condition site design in a manner that would otherwise seem unusual.

J. Daigle: We met with the Historical Commission. Typically our gas station would have more glass and stone work, but here we were keeping more in store with the other historic buildings and more New England look. We have a wood building painted a beige color and goes on to describe materials used and how. Reviews a drawing of the proposed building which faces Washington Street and side drawing view from Schoosett Street. We have shown the screening so you won't see all the mechanical equipment.

Gallagher: Is that only going to be a one story building?

Daigle: Yes.

Gallagher: What is that in the rear?

Daigle: The cut in for the hvac units.

Casavant: Just a convenience store?

Galvin: Just a convenience. We really tried to locate the buildings in a manner to not detract from the Friends Meeting House.

In respect to the special permits, we need a special permit for the gasoline sales and a special permit to alter a non-conforming property. The Board has the right to look at the site as either as a non-conforming use or a series of non-conforming properties which we are looking to alter. The Board has the authority to grant a special permit. In the alternative if the Board does not believe that alteration includes the ability to change this use that we're proposing I have made the zoning analysis for a variance. I looked at the Assessors' maps and could not find any conforming lots in the area. We have topographical conditions that force us into the top portion of the lot that centralize us to the middle and the rear. The variances we're asking for are minimum lot size requirement, pavement, landscaping, impervious coverage, sign location, parking spaces.

All of the property owners are here and are in favor of this project.

I'm happy that you asked Mr. Brogna to review this project. I was disappointed that I did not get a chance to speak with him before he wrote his initial letter because there were some other things I could have added that would have helped him understand some of the history of the area.

Casavant: What's your opinion on the special permit verses variance?

Galvin: In the past your Board has used the word "alteration" very broadly, probably to avoid the word "variance" where it could. That's the only history I have. It's a policy determination you as a Board have to make. You have a major problem with the Business B. District as not many of the properties meet the lot area.

Dowling: Will the three lots be combined into one lot?

Galvin: It can be done through an 81X plan.

Broгна: Review his letter of September 13, 2017 that requested additional information relative to the justification of the variances. The information provided today will hopefully upon review justify that. Goes on to review the density of the site and compares this site to the other stations on Rt. 139. Reviews the triangular shape of the lot and the usability of the lot. Frank, do we know the soil conditions of this site?

Monteiro: We did several test pits on the site with the Board of Health to design infiltration systems and identify where they could go as well as a septic system. The water table was down around 7-8 feet depending where on the site. We do have a good handle on the soils. The details have been submitted to Mass Highway last week.

Broгна: The interior use of the convenience store. Obviously they'll be serving food, refreshments, coffee, soda, etc.

Monteiro: Quick service items. All prepackaged sandwiches.

Gallagher: Is there any soil pollution on the site?

Monteiro: There was an environmental report done. The levels of MTV are below DEP standards.

Broгна: How many employees will be there during the day?

Monteiro: 2 to 4. As to where the building was facing, it was designed to have two fronts.

Broгна: On the fuel tanker, that's a 10,000-12,000 tanker.

Monteiro: Yes, and goes on, using the drawing, how it will enter, unload, and leave the site.

Casavant: And when the truck comes out it's going left?

Monteiro: Yes. down Washington.

Casavant: We're going to open the hearing to the public.
(No response)
Then lets continue this hearing.

Griffin: I make a motion to continue Case #21-17 to Monday, November 20, 2017 at 7:20 p.m..

Gallagher: Second

Casavant: All in favor.

Griffin: Aye,

Gallagher: Aye.

Casavant: Aye.
Motion carried.
Hearing adjourned until Monday, November 20, 2017, at 7:20:p.m., but due to lack of quorum was changed to December 11, 2017 at 7:15 p.m.

Monday, December 11, 2017 at 7:15 p.m.

Casavant: Re-opens hearing and turns floor over to Robert Galvin, attorney for Irving Oil.

Galvin: Reviews October 23, 2017 presentation.

The triangular shape of this lot creates a significant shape issue for us as it inhibits us from making more parking spaces than we have proposed here. The topography of this lot changes eight feet. The easterly entrance of Schoosett Street down to the westerly exit on Washington Street, which requires us to construct some retaining walls and push the buildings and canopy back from the street. We're taking every aspect of these nonconformities on each of these three lots and we're improving every single one of them. Because this is a commercial property we think this is a variance case.

Located just to the right of the convenience store is a green space area and that's where our leaching system for our septic system is located. It's the only place on the entire lot where it can be located.

All of these dimensional issues are unique to this property and connected to the zoning relief that we've asked for.

Beginning in February of this past year we've been meeting with the Historic District Commission and the Historic Commission relative to the design and layout of this site. They have absolute authority of design and layout of the structures. What we have here tonight is basically what we were able to work out with them.

We are in every respect making this site less nonconforming. We believe that this relief can be granted without substantial detriment to the public good and without nullifying or substantially derogating from the spirit and intent of the bylaw. This site was granted a variance in 1991 to reestablish a gas station.

Monteiro: Ideally we like the store to be directly behind the canopy, everything nice and square with parking all around the store, but because of the unique shape of this and the topography we had to do an unusual layout to get from Point A to Point B. The elevation of the store is about four feet higher than the road here, about a foot higher than the driveway here and about four and one-half feet lower than the driveway there. So its kind in the middle of the lot.

We've been going thru the Mass DOT process on the driveway review and this is now restricted to a right in and right out maneuver whereas the original plan was full access. We clearly need to maintain a travel way thru the site. In terms of the canopy we decided to stay with the canopy as shown. Goes on to compare their proposed canopy with other sites in the area.

Monticup: We have been dealing with Mass DOT on our access permit. We received our non-vehicular access permit for the water connection out on 139 that went out to DPW. We have just recently submitted the updated site plan.

Brogna: I was the one that prepared the comparison table of this proposed site with the other sites in the area and goes on to explain differences in sites. The landscapes are comparable, the number of pumps are comparable, but when you look at the size of the convenience store, the number of square footage of the canopy and the number of parking spaces, it has the biggest building but the fewest number of parking spaces.

Galvin: What distinguishes Irving Oil is they don't cut corners and the increase in size is because of the safety measures they make.

Broгна: To tie to its decision the Board needs an updated complete set of plans. Also, the tanker delivering oil to the site will have one way in and one way out, in on Rt. 139 and out on Rt. 53.

Monteiro: In terms of the tanker circulation, there is usually one way that the tankers come in and out of the site based on how they deliver. The fuel tank always connects on the passenger's side of the truck. It's got to come in in a fashion so that the truck can park to the left side of the tanks. They want to minimize the number of turns.
In terms of the number of parking spaces some of the examples have an excessive amount of parking spaces. You don't usually see thirty-five spaces for cars at a gas station. A lot of the bylaws that are written are not up to today's standards in terms of how customers use these facilities.

Casavant: Is there any data or studies on parking?

Monteiro: It's so variable on what's included.

Gallagher: I took a ride and looked at all the station and in my mind the convenience store is too big for the size and shape of that lot. Could you make that building a little bit smaller? The same goes for the length of the canopy.

Griffin: What is the average convenience store size?

Monteiro: We have two standards, 4,350 sf and 3600 sf. We have one up in New Hampshire which is 5,000 sf. This is a new prototype. We haven't built one yet. This has been altered to reflect the Historic Commission's requests.

Gallagher: What type of business are you going to have in there?

Monteiro: They'll be no co-tenants in there.

Gallagher: Do you have any smaller buildings?

Monteiro: We do but we haven't built any. We've bought out some smaller chains which have smaller stores.

Gallagher: I'm for the project, but honestly not the size of the building. The density of that triangular lot is overwhelming.

Casavant: I think what we're saying is you're putting the biggest gas station with the least amount of parking in Pembroke in this odd shaped lot.

Monteiro: If we could knock that down from 3600 to 3200 would you be comfortable with that?

Gallagher: The lot calls for a smaller building and more parking spots.

Galvin: If we create more parking spots, it makes lot coverage worse.

Griffin: A smaller building would require less parking spaces. I find it ironic that you said that most people don't go in the store, so why do you need 3600 sf of merchandising space if most people are just going to the pumps and leaving.

Monteiro: If we chop off this back section, I don't see that we'd get more parking.

Gallagher: A smaller building would require less parking spaces.

Monteiro: I agree.

Galvin: We're amenable to making this building 3,200 sf.

Casavant: We'll open it to the public for their comments.

S.Vantasle, 11 Schoosett St: With the limited parking. Where does the traffic pile up when all the spaces are full?

Casavant: We'll continue this hearing to January 8, 2018 at 7:45 p.m.
Hearing adjourned.

Monday, January 8, 2018 at 7:45 p.m.

Casavant: Reopens hearing.

Brognna: Reviews draft decision with question on fuel tankers routes on site.

Monteiro: What I suggest that the best route would be the truck going in and out the same driveway.

Brognna: Dimensionally it will work. With parked cars and moving cars, it's safety that is a concern.

Casavant: What would be the recommended time of delivery?

Monteiro: We try to schedule deliveries during off-peak hours; however if you run out of gas during the weekend, Irving is going to deliver it.

Casavant: What will the hours of operation going to be?

Monteiro: Twenty-four hour operation.

Four less parking with the smaller store from 38 spaces to 34 spaces.

The date of the final drawings for the decision is December 20, 2017.

The truck turning plan for referencing is also dated December 20, 2017 and I'll make a reference that the truck come and go using the same driveway on the easterly end of the project.

Casavant: Will the dumpster be screened?

Monteiro: Yes.

Gallagher: What is the height of the canopy and what is the height of the truck?

Monteiro: The canopy is fifteen feet in height and the truck is ten-twelve feet in height.

Griffin: There was to be a condition that the three lots are to be combined into one lot.

Galvin: That's our proposal.

Gallagher: How much green space will there be?

Monteiro: The requirement is 25% open space, the existing is 18.1% and we're going to 19.0%.

Casavant: Does the Board have anything else?

Gallagher: Nothing.

Griffin: Same here.

Casavant: Then, let's have a motion.

Griffin: I make a motion to allow the application of Irving Oil Marketing, Inc. by Robert W. Galvin, Esq. granting a special permit and variances of the Zoning Bylaws of the Town of Pembroke, Sec. IV, 4. B. 2 Uses Allowed by Special Permit and variances from Sec. IV, 4. D. 1. Lot Size, Sec. IV, 4. D. 4. Front Yards, Sec. IV, 4. D. 5. Side Yards, Sec. IV, 4. D. 6. Rear Yards, Sec. IV, 4. D. 14 Landscaping, Sec. V, 1. Signs and Sec. V, 4. 2A. and J. Parking to raze the existing structures and construct a new gas station and convenience store. Property is located at the corner of Washington and Schoosett Streets as shown on the Assessors' Map D-14,

Lots 8, 83 and 84 as shown on the draft plan submitted by Attorney Galvin
on January 8, 2018.

Gallagher: Second.

Casavant: All in favor.

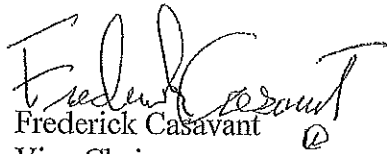
Griffin: Aye.


Gallagher: Aye

Casavant: Aye.

Motion carried.

Hearing adjourned.


Frederick Casavant
Vice Chairman


James Gallagher
Clerk


Christine Griffin
Alternate