

Categorized | [Government, Page 1](#)

Tags : [Bridgehampton](#), [East Hampton](#), [North Haven](#), [Sag Harbor](#), [Southampton](#)

Search the site for...

Search

Opponents Maintain Pressure Against Harbor Heights Expansion

Posted on 20 March 2013



By **Kathryn G. Menu**

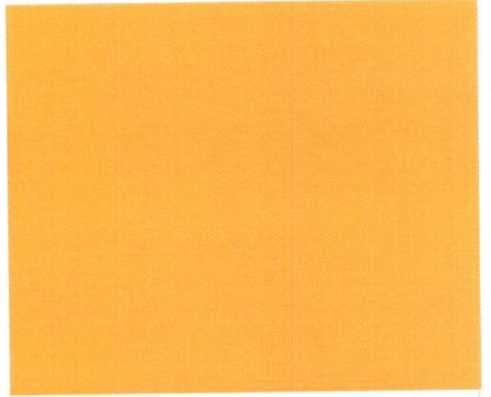
Save Sag Harbor attorney Jeffrey Bragman not only made a case against the re-development and expansion of the Harbor Heights Service Station on Hampton Street during a public hearing on Tuesday night, he also made a case against the project's legality.

The East Hampton attorney, who attended the Sag Harbor Zoning Board of Appeals (ZBA) meeting representing Save Sag Harbor, also charged he believes Leonard should be seeking use variances, in addition to the area variances he already needs.

In Leonard's case, the standards required for the ZBA to grant a use variance for his project, would likely be "fatal," noted board member Michael Bromberg, who appeared to agree with Bragman on this point.

Tuesday night's meeting was the third formal public hearing in front of the ZBA on the Harbor Height's expansion.

Leonard is proposing a 1,842 square-foot building to replace the existing Harbor Heights Service Station building, with a 972 square foot convenience store within it. Several areas, where goods are not visible, including the bathroom, have not been counted towards the total square footage of the store. Expanded pumps and fuel positions



Opinions

- [Express Editorials](#)
- [Letters To The Editor](#)
- [Our Town](#)
- [Point Of View](#)
- [Suffolk Close-up](#)

Follow The Express...



More posts in this category

[This Category's RSS Feed](#)

Pictures of the Week - See all photos

are proposed under a canopy, as are two new curb cuts into the property, 32 parking spaces and new landscaping.

The building will be pushed back into the property although will still sit perpendicular to the road. Unlike its current layout —with four fueling positions almost sitting in the right-of-way on Hampton Street — the canopy and fueling island will also be placed inward on the property, and will also be perpendicular to the roadway.

Leonard needs a number of variances from the ZBA to make this plan a reality, including one for the 23.75 foot height of the canopy; a variance for a freestanding sign two feet from Hampton Street where 20 feet is required; and a variance for the size of the convenience store, which is capped under the code at 600 square feet, among several others.

On Tuesday, Bragman said the sheer number of variances as well as the amount of relief Leonard is seeking from the code is something that should concern the board.

"One of the requirements you have to follow when you decide a case is you have to grant the minimum number of variances necessary," he added, saying that if Leonard is going to seek this much relief, he should provide a detailed explanation on the need for these "extreme" variances.

Bragman said the addition of two new pumps is an expansion of a pre-existing, non-conforming use, noting that a pump area that takes up about 72 square feet now will expand into an area that he said will be 2,700 square feet.

"If we agree four to eight is an expansion of a non-conforming use they would need a use variance," said Bromberg, adding it would be unlikely they could get a use variance if Leonard purchased the property while this code provision was in place.

Bragman agreed it would be very difficult for Leonard to prove he should be granted a use variance.

"One of the legal issues here is whether there is an expansion of a non-conforming use that would require a use variance," said village attorney Denise Schoen, noting Leonard's attorney, Dennis Downes does not believe this is an expansion of a non-conforming use. "You as a board have to make that determination."

Bragman also noted a section of village code prohibits the expansion of a pre-existing, non-conforming use beyond 50-percent of the size of the use when it originally no longer met village code.

Looking at the chronology of the Harbor Heights, Bragman argued his research shows expansions made to the gas station use since 1956, including one undocumented expansion and another allowed by the ZBA in 1988 where he believes the board purposefully went beyond the 50 percent expansion limit, show a use that was likely 800 square feet in the 1950s. If that number holds true, Bragman said the building built at the Harbor Heights Service Station would not under code be allowed to be more than 1,204 square feet.

"We believe he should not be able to expand anything at all," he said, adding Leonard should provide an explanation of the growth of the use at Harbor Heights and whether it meets code.

Bragman added his interpretation of the code is that if you have a pre-existing, non-conforming use in a pre-existing non-conforming building, once you demolish and move that building — as Leonard proposes — you lose your vested rights.

"It's a different building, a different footprint and we think it has actually expanded," said Bragman.

"You have another gas station in town," he added, "And if you don't think they are looking over this applicant's shoulder you would be well advised to keep that in mind."

In addition to setting a precedent for the other gas station in Sag Harbor — the closed Getty station at the intersection of Main Street and Jermain Avenue — Bragman argued if the board allowed these variances to be approved, it would also set a precedent for all pre-existing, non-conforming uses in the village.

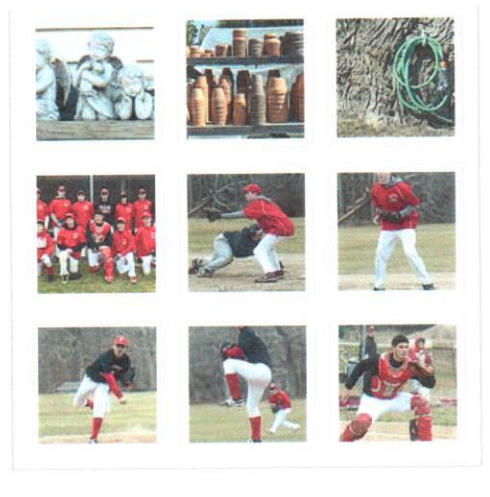
Bragman then presented a plan with a 600 square-foot store, a 673 square foot gas station office that meet all village codes, including buffers — a real protection for the residential neighborhood surrounding the station, he added.

"He is cutting out every bit of buffer he can possibly squeeze out on all sides so he can fit his oversized building," said Bragman.

Bragman added that despite Leonard's engineer's belief the code, as he reads it, would allow more than a total of 600 square feet in space for the store — only counting areas where retail sales space physically exists — he believes the code is quite clear in this limitation.

While the interior of the store is over 1,600 square feet, including bathroom and freezer space, Leonard is only asking for a variance for 972 square feet, arguing areas like the bathroom, freezer and cooler space inaccessible by patrons and the space the attendant stands should not be counted in overall square footage.

Gross floor area, noted Bragman, is defined in the village code as interior wall to interior wall space, and under



special exception use standards for a convenience store it is noted that anything over 600 square feet should be considered a impermissible intensification of use. Lastly, the definition of a convenience store in the code also limits its size to 600 square feet.

"This is not where the village board wanted to go and it is not where you should go," said Bragman.

Bragman added traffic data was skewed to present smaller numbers than what actually exists. Traffic engineers talking about 24 cars increasing on the site, in-season and on weekdays, Bragman said they meant by the hour — a substantial increase.

"They can argue till the cows come home that it will not affect the level of service on Route 114, but it will certainly affect the quality of life for people living next door and the church," he said.

Resident John Shaka also presented the board with three petitions — two with 265 signatures — half from residents directly around the Harbor Heights Service Station and the rest from the Village of Sag Harbor — asking the ZBA demand the project be in compliance with the village code.

A third petition was also submitted by Shaka representing 249 signatures collected on line was also given to the board.

Be Sociable, Share!



Tweet £2, Like 1, +1 0, Share, Submit

This post was written by:



Kathryn Menu - who has written 1344 posts on The Sag Harbor Express.

Contact the author

One Response to “Opponents Maintain Pressure Against Harbor Heights Expansion”



Robert burns says:

March 20, 2013 at 9:34 pm

The “land of no” strikes again and again! “Save Sag Harbor” employs a hired gun to throw up any and all reasons to stop this project. Noting more than a negative publicity campaign to stop a project that would make the current spot a great deal better than it looks now.

Remember when there was a table in front of the Sag Harbor theater with petitions to stop the 7-11? Now this same group of “newcomers” to the village would fight to keep it! Nothing makes sense on the East End any longer. “Save Sag Harbor” from what? It was changed many years ago by the NYC dollar.

Leave a Reply

Name (required)

Mail (will not be published) (required)

Website