



ZONING BOARD OF ADJUSTMENT

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MINUTES OF THE BOARD OF ADJUSTMENT PUBLIC HEARING

Tuesday, December 16, 2014 – 7:00 p.m. – Town Hall Conference Room

Members Present: Liz Cummings, Ron Gross, Brian Hutchinson, John Samonas

Members Absent: Chair Chris Halligan

Staff: Myrick Bunker – Building Inspector

Vice Chair Samonas opened the Board of Adjustment meeting at 7:00 p.m. and a roll call was taken. The Vice Chair explained the procedures of the Zoning Board of Adjustment, stating that a quorum was present and the meeting was being recorded. Vice Chair Samonas explained that there were only four members present and a majority would be needed to grant a Variance. The applicant was given the option to proceed or continue to the January meeting; the applicant opted to proceed.

1. Request for a Variance: 125 Ocean Road [Map R21, 51]

Owner/Applicant: Harbour Links Estates, LLC

Greenland Zoning Ordinance: Article VI, Section 6.3, Subsection 6.3.4

The owner/applicant proposed to refit the existing billboard located on the northeasterly corner of the property with an LED sign that will change images. The ordinance prohibits this type of sign.

David Brown, attorney for the applicant, addressed the Board. Also present was Steve Binnie and Adam Binnie, Harbour Links Estates. D. Brown reminded the Board that their Request for a Variance was continued from the November meeting due to the wording in the notice.

D. Brown distributed an email to the Board from Matthew LaBrake, Supervisor of Outdoor Advertising Control for NHDOT (copy on file). The sign is acceptable as far as the State is concerned.

In reviewing the application, the sign will be the exact same size, height, and dimensions, and in the same location as the existing. They will be talking to a structural engineer to ensure the sign is structurally sound. There will also be no strobe lights, blinking lights or marquee running. There were no further questions regarding the application.

MOTION: *L. Cummings moved to remove the application from the table, which was done at the November 18, 2014, meeting. Second – B. Hutchinson; all in favor. MOTION CARRIED*

Vice Chair Samonas opened the meeting to public comments. There being none, he closed the public hearing and returned to the Board for discussion. L. Cummings stated that it is a non-conforming sign, which does things the ordinance states it can't do; it's still an electronic message sign. There is nothing in the ordinance which defines the proposed sign; the ordinance hasn't caught up with technology. She continued that the critical element was the timing of the repeat; the applicant had clarified that the size, structure and location would not change.

R. Gross was concerned with the messages changing at intervals because there was no definition as to how often the sign would change. Currently, the electronic section of the sign is approximately 25%; if approved, it will increase to 100% which is a drastic change. He stated that the Board would be allowing it to change to something much more non-conforming because there is no definition of what can be done. The electronic aspect creates a tremendously bigger sign. The interval of 3 to 5 minutes mentioned in the November meeting was much more acceptable than stating it would change at intervals. R. Gross stated he would feel more comfortable with a clearer definition of what the applicant is planning.

B. Hutchinson referred to RSA 674:19, stating that the Board had to allow the applicant to upgrade the existing sign. The applicant was not putting up a sign that changed in size and was not four times as large as the existing; they would be updating the electronics on the sign.

Vice Chair Samonas disagreed it would be three times larger. The applicant had a right to expand within the square footage of the sign at their discretion. Although he understood the opinions of members of the Board, allowing expansion was within the standards of RSA 674:19. There is a void in the email from NHDOT that doesn't address the interval. L. Cummings felt a 30-second interval would be too much and 3 to 5 minutes would be too restrictive to the applicant. She felt between 1 and 2 minutes would be appropriate. Conditions of approval should include the interval for image changes, the sign must be approved by the State, and that the sign does not exceed the dimensions, structure footprint or location of the current sign. Vice Chair Samonas suggested including a statement regarding the State allowance for interval changes. He reiterated safety was the main concern. R. Gross stated that while it may be the same sign, the electronic aspect was substantially different. The sign would be creating more out-of-town advertising, and that would make it more non-conforming. Vice Chair Samonas pointed out that there are no limits as to what can be advertised on the sign, and the face could be changed daily.

D. Brown stated that 30 second to 1 minute intervals was acceptable to the applicant. They are pursuing local merchants and would be more than happy to run public service messages (i.e. amber alerts).

MOTION: *L. Cummings moved to approve the Request for a Variance for 125 Ocean Road [R21, 51], subject to the following conditions: (1) replacement of the existing sign shall be approved by the State; (2) sign shall not exceed current dimensions, structure footprint or location; (3) the interval shall be 1 minute or at the interval allowed by the State, whichever is longer. Second – B. Hutchinson*

DISCUSSION: L. Cummings stated that 90% of granting the Variance comes down to: changing the sign is not contrary to the Town; the purpose of the Sign Ordinance is to promote and protect public health, safety and welfare by regulating existing and proposed outdoor advertising; property values will not be affected; and it will not distract traffic or change the scenic and natural beauty. It would be nice to display amber alerts to provide a public service; it's not contrary to the public interest; it's a grandfathered use and is not a significant change. Because of the grandfathering, the Board is not changing things in this particular instance; if it was new sign, L. Cummings would not be making the same statements. To deny the Variance would cause an unnecessary hardship because there is an existing sign which has been maintained. To prohibit because electronics were being updated would be an undue hardship. The applicant has an inherent right for the sign. Vice Chair Samonas agreed, adding that granting the Variance would allow a larger public benefit (public service announcements, weather emergencies, amber alerts). The long term benefits of the replacement sign will be better than the existing.

MOTION: L. Cummings moved to approve the Request for a Variance for 125 Ocean Road [R21, 51], subject to the following conditions: (1) replacement of the existing sign shall be approved by the State; (2) sign shall not exceed current dimensions, structure footprint or location; (3) the interval shall be 1 minute or at the interval allowed by the State, whichever is longer. Second – B. Hutchinson; three in favor, one abstain (R. Gross). **MOTION CARRIED**

2. Approval of Minutes: Tuesday, November 18, 2014

MOTION: L. Cummings moved to approve the minutes of Tuesday, November 18, 2014. Second – B. Hutchinson; all in favor. **MOTION CARRIED**

3. Other Business

L. Cummings stated that the Planning Board needed to pay significant attention to the Sign Ordinance. Vice Chair Samonas added it was one of the weakest parts of the Ordinance and one the Planning Board had worked the longest on to create. R. Gross agreed that the Sign Ordinance was the toughest one, but felt the Zoning Board failed to meet the spirit of the ordinance in their decision. L. Cummings stated that she hoped the new Planning Consultant would go through the ordinance and make revisions and updates. She further stated that the Chair and/or Vice Chair could meet with the Chair and/or Vice Chair of the Planning Board and stress the need for revisions to the Sign Ordinance.

4. Adjournment

MOTION: L. Cummings moved to adjourn at 7:50 p.m. Second – Vice Chair Samonas; all in favor. **MOTION CARRIED**

NEXT MEETING

Tuesday, January 20, 2015 – 7:00 p.m., Town Hall Conference Room

Respectfully Submitted: Charlotte Hussey – Secretary to the Boards

Approved: Tuesday, February 17, 2015