



# ZONING BOARD OF ADJUSTMENT

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## MINUTES OF THE BOARD OF ADJUSTMENT PUBLIC HEARING

Tuesday, July 21, 2015 – 7:00 p.m. – Town Hall Conference Room

*Members Present:* George Baryames, Liz Cummings, Steve Gerrato, Brian Hutchinson, John Samonas

*Staff:* Myrick Bunker – Building Inspector

Chair Samonas opened the Board of Adjustment meeting at 7:00 p.m. and a roll call was taken. The Chair explained the procedures of the Zoning Board of Adjustment, stating a quorum was present and the meeting was being recorded.

1. Request for a Variance: 125 Ocean Road [Map R21, 5 – Commercial C]

Owner/Applicant: Harbour Links Estates, LLC

Greenland Zoning Ordinance: Article VI, Section 6.3, Subsection 6.3.38

*The owner/applicant is requesting that a Variance granted in December 2014 be amended to allow the existing digital sign to change images up to a maximum of seven times per minute. That Variance states, in part, the interval shall be 1 minute or at the interval allowed by the State, whichever is longer.*

David Brown, attorney for the applicant, addressed the Board. Also present was Adam Binnie, Vice President of Harbour Links Estates. D. Brown reminded the Board they were granted a Variance in December 2014 for the digital sign. He stated for a business model, changing the interval frequently would be conducive to customer's preferences. D. Brown updated the new members of the Board with a brief history of the sign.

The sign is operational, and the transition was good. D. Brown stated it takes approximately six seconds to pass the sign travelling on I-95; west on Ocean Road takes approximately four seconds. A Billboard Location Sketch, showing the face of the billboard, was given to the Board. He stated there is no neighborhood or inhabitants in the area. He also gave the Board a letter from a local realtor stating that more frequent intervals would not have a negative effect on property values. Although NHDOT has a lengthy statute and regulations regarding digital signs, they defer to towns and cities for the length of intervals.

D. Brown stated that if it was a reasonable request and the property owner could enjoy their property, and no one in the neighborhood was hurt, it should be allowed. He continued that it would not be contrary to the public interest because there is no effect on neighbors; it's consistent with the spirit of the Ordinance because it's updating a unique, old sign to modern technology; substantial justice would be done when balancing the public's benefit vs. the loss to them.

Binnie showed the Board various videos of the new sign on I-95 vs. similar digital signs that change at shorter intervals. The image on the new sign is fully static, which is mandated by NHDOT; countdown clocks, flashing lights, etc., were not allowed. A. Binnie continued that the industry standards are eight

to ten seconds per image; impressions per slide significantly decrease with intervals at one minute. It's difficult to sell an ad with the interval at one minute, and that creates an unnecessary hardship. D. Brown added that under the new relaxed case law, they meet the test by not hurting the neighborhood and it's a reasonable use.

G. Baryames asked if there was any statistical significance regarding an increase in accidents with more frequent intervals. A. Binnie stated that the customer has more impressions the smaller the time frame. L. Cummings asked why the interval would need to change more frequently if the impression is only seen for five to six seconds. The response: driving by every day, only one image would be seen. Eventually, different ads would be seen by increasing the frequency.

Chair Samonas opened the hearing to public comments. There being none, he closed the public hearing and returned to the Board for discussion. G. Baryames researched the safety aspect of the digital sign and what other states have done. Ohio did a study over seven years and found changing the sign seven times per minute didn't cause any significant statistical increase in accidents.

The Board cannot dictate the complexity of the message; however, they can dictate the length of the message. L. Cummings stated she had a visceral disagreement with the image changing so frequently. Chair Samonas clarified that she didn't mind the image changing, but not every seven to ten seconds. The variability of the dwell time based on the time of day cannot be changed due to the complexity of the computer program.

**MOTION:** Chair Samonas moved to grant a Variance to allow the billboard to change four times per minute. Second – L. Cummings

DISCUSSION: Chair Samonas chose four times per minute because the billboard can be seen under the bridge. More than 10 seconds, but less than 15 seconds would be less of a safety hazard. It was not a detriment to the area; it's a unique situation and there are no neighborhoods in the area. It has been a billboard since 1964 and was allowed to be replaced, updated and modernized.

**MOTION:** Chair Samonas moved to grant a Variance to allow the billboard to change four times per minute. Second – L. Cummings; three in favor, two opposed (L. Cummings, S. Gerrato). **MOTION CARRIED**

2. Request for a Variance: 179 Post Road [Map U2, 8 – Residential]  
Owner/Applicant: Ben Pecora  
Greenland Zoning Ordinance: Article IV, Section 4.2, Subsection R(f) and Definition: Structure  
*The owner/applicant is erecting a fence that may vary in height from 4' to 8'. The Ordinance states that a fence over 6' is a structure and must meet the structural setback of 20'. The site plan shows 10' of the 8' fence on the southwesterly side of the shed is located 10' to 15.5' from the property line.*

Chair Samonas clarified that the fence is basically meandering and varies in height due to the contours of the land. Ben Pecora, property owner, addressed the Board, telling them he was unaware he needed a permit. By the time he was told by the Building Inspector that he needed building permits, most of the work was completed. B. Pecora described the fence and its location to the Board, adding it was done for privacy and concern for the neighbor.

There was a 4' high chain link fence that was replaced; a discussion followed about the new fence. The property line is a stone wall. Fence posts are 4' down, using concrete. The shed is also on a concrete and rebar slab; there is electricity and water to the shed. There is a pool on the property. B. Pecora told

the Board the fence couldn't be seen from the road and only affected the neighbor, who was fine with the fence. He felt it would increase the value of his property because the fence is convenient, and is conducive to privacy and being a good neighbor.

A permit for the deck was issued after it was completed. B. Hutchinson questioned the dates and the length of time that had gone by before applying for the necessary permits. B. Pecora explained he travels for work and was unable to get the permits. He added that most of the work was done when the Building Inspector originally spoke to him.

Chair Samonas opened the hearing to public comments. There being none, he closed the public hearing and returned to the Board for discussion. The Building Inspector told the Board that the applicant had been diligent in completing the application process, adding that getting a Wetland Scientist was difficult. S. Gerrato stated that he would have preferred plantings rather than a fence. G. Baryames had visited the site earlier in the day and felt that moving the fence may not be a problem but the shed was unmovable. L. Cummings commented that if the fence was brought down to 6', he wouldn't need a Variance. Her biggest concern was not the fence itself but the fact that he didn't know about the need for permits.

**MOTION:** *L. Cummings moved to grant the Variance for the fence as requested at 179 Post Road. Second – G. Baryames*

DISCUSSION: There was discussion about plantings rather than fencing. S. Gerrato suggested using arborvitaes.

**MOTION:** *L. Cummings moved to grant the Variance for the fence as requested at 179 Post Road. Second – G. Baryames; four in favor, one opposed (S. Gerrato). MOTION CARRIED*

3. Request for a Variance: 179 Post Road [Map U2, 8 – Residential]  
Owner/Applicant: Ben Pecora  
Greenland Zoning Ordinance: Article IV, Section 4.2, Subsection R(f)  
*The owner/applicant has built a shed that is 16' from the property line on the SE corner and 9.5' from the property line at the SW corner. Approximately 121.5 sq. ft. of the shed is in the side yard setback. The minimum setback from the property line is 20'.*

B. Pecora told the Board that the 12' x 12' shed is on a concrete slab, and has power and water. There is no bathroom; the pool pump was moved into the shed. The slab has rebar; there is no requirement for rebar on slabs.

Chair Samonas opened the hearing to public comment. There being none, he closed the public hearing and returned to the Board for discussion. L. Cummings stated if the fence is allowed, with concrete at the bottom, it would be an unnecessary hardship to make him move the shed with a concrete slab and rebar. However, he should have gotten a permit. It provides him further use of his property with an in-ground pool. Several members of the Board didn't have a problem with the location of the shed and didn't feel it was a detriment to the value of neighboring property.

There was, however, a concern about setting a precedent. L. Cummings stated that the Ordinance sets the standard; a Variance says the standard has to be bent. It does meet the requirements of a Variance: it would be undue hardship to move the shed. Chair Samonas was adamant that the reason for granting the Variance should not be "just because it's already there". There was a lengthy discussion around moving the shed.

**MOTION:** Chair Samonas moved to approve the request for a Variance for a shed with contingencies: (1) the applicant plant 12 – 6’ high arborvitaes between the shed and property line to buffer the shed from the adjacent property for now and in the future; (2) the arborvitaes must be replaced if they die; (3) the plumbing and electrical must be inspected by the Building Inspector and to code. Second – S. Gerrato

DISCUSSION: Chair Samonas reiterated that there must be 12 arborvitaes, each 6’ high, planted 3’ on center, in a linear form and parallel to the property line. His intention was that there would be a buffer between the shed and the adjacent property; sheds are not to be placed within the setback. Chair Samonas added that the Board had sympathy because the shed was in place, but they needed to provide what the 20’ buffer would provide. L. Cummings pointed out that not only would the shed be covered, but the fence as well. She suggested the arborvitaes be offset rather than linear. There was further discussion with B. Pecora about planting and care of the arborvitaes. Chair Samonas told B. Pecora planting should start at the 4.5 point on the plan and work down; they should not touch when planted.

**MOTION:** Chair Samonas moved to approve the request for a Variance for a shed with contingencies: (1) the applicant plant 12 – 6’ high arborvitaes between the shed and property line to buffer the shed from the adjacent property for now and in the future; (2) the arborvitaes must be replaced if they die; (3) the plumbing and electrical must be inspected by the Building Inspector and to code. Second – S. Gerrato; four in favor, one opposed (L. Cummings). MOTION CARRIED

When purchased, the arborvitaes must be 6’ tall.

4. Approval of Minutes: Tuesday, June 16, 2015

**MOTION:** L. Cummings moved to approve the minutes of Tuesday, June 16, 2015. Second – B. Hutchinson; all in favor. MOTION CARRIED

5. Other Business

L. Cummings suggested that the ZBA recommend to the Planning Board areas of the Ordinance that require clarification. M. Bunker told the Board he would be meeting with the Planning Board Consultant to work on Ordinance changes; if they had any recommendations, they should email him. Chair Samonas asked L. Cummings to do an outline of possible concerns for discussion.

6. Adjournment

**MOTION:** L. Cummings moved to adjourn at 8:40 p.m. Second – B. Hutchinson; all in favor. MOTION CARRIED

NEXT MEETING

Tuesday, August 18, 2015 – 7:00 p.m., Town Hall Conference Room

Respectfully Submitted – Charlotte, Secretary to the Boards

Approved: Tuesday, August 18, 2015