

**FRANKLIN ZONING BOARD
REGULAR MEETING AND PUBLIC HEARING
CITY COUNCIL CHAMBERS- CITY HALL
Wednesday, January 7th, 2015 at 7:00 p.m.**

MINUTES

Call to Order: The meeting was called to order at 7:10 p.m.

- ❑ **Salute to the Flag**
- ❑ **Roll Call**
Present: Sandra Hodgdon, Kathlene Fleckenstein, Michael Weatherbee and Planning and Zoning Administrator Richard Lewis.
Absent: Donna Tully and Donald Gagnon.

Member Weatherbee was seated in the vacant voting member position.

- ❑ **Approval of Minutes: December 3rd, 2014 Zoning Board Meeting**

MOTION: Member Hodgdon moved and Member Weatherbee seconded to approve the minutes of the December 3rd, 2014 Zoning Board regular meeting. All were in favor and the motion passed.

Old Business

- ❑ **Z14-09:** George E. Lees III and Marie C. Lees, Owners/Applicants, request a variance allowing a lean-to roof structure to the north side of the garage as shelter for lawn equipment. The lean-to will be approximately ten (10) feet from the property line, where the setback requirements are fifteen (15) feet. The property is located at 57 Lawndale Avenue, Tax Map/Lot # 096-074-00, R-2 Zone (High-Density Residential District).

The Lees' have requested that their application be withdrawn.

MOTION: Member Hodgdon moved and Member Weatherbee seconded, per the request of the applicant, to withdrawn application Z14-09, application of George and Marie Lees for a variance for a lean-to roof at 57 Lawndale Avenue, Tax Map/Lot # 096-074-00. All were in favor and the motion passed.

New Business

- ❑ **Z14-11:** HAJVARI CORP (Sarfracz Chaudhary), Owner, requests a Variance [per Section 305-24.F(1)] to put in an electronic sign at property located at 80 North Main Street, Tax Map/Lot # 098-096-00, B-1 Zone (Low-Density Business and Commercial District). The sign would display digital gas pricing, but this pricing would not be flashing numbers.

Sarfracz Chaudhary, owner of 80 North Main Street and a resident of Franklin, was present to speak. He stated he is looking to be able to put in a digital sign for the business. Acting Chair Fleckenstein indicated that before we begin, a full board consists of five members. This evening there are three members, which is a quorum if all members vote the same way; however, if one member votes differently then the application would be continued to next months meeting. She asked the applicant if he would like to continue or would like to wait to be heard in front of a full board. Mr. Chaudhary stated that he would like to continue this evening.

Mr. Chaudhary stated that big sign at the roadway currently has large numbers for the gas prices on it. The sign is located above the sidewalk and at the entrance to the building. Changing of the letters and the letters themselves are a public safety hazard. Sometimes the numbers will fall off and hit a vehicle, a person or other items. An employee has to use a 12' pole to place the numbers on the signs and they will fall while being placed on the sign. Wind blows the letters off. In the winter icy conditions make placing the numbers on the sign even more of a safety concern.

He stated with the new sign the numbers would be changed from inside the building. He stated there are other signs in town like this, being Cumberland Farms which flashes, The Town Crier at Garneau's which flashes, and the Citgo on the hill has digital signage for their gas prices.

Board Questions

Member Fleckenstein asked if the only time the numbers would be changed would be with changing gas prices and Mr. Chaudhary stated that was correct.

Member Hodgdon asked if the existing sign would be staying and just the number portion would be changed and Mr. Chaudhary stated that was correct.

Member Fleckenstein asked if the letters would be the same size. Mr. Chaudhary stated they will be half the size.

Richard Lewis asked if the Citgo sign would be staying, as well as the Fast Food Mart sign, but the numbers would be LED lighting for regular gas pricing and diesel pricing and Mr. Chaudhary stated that was correct. Richard asked why there were two pictures submitted and Mr. Chaudhary stated one shows the size of the sign from the ground and one is a close up showing the actual sign dimensions.

Public Comment: None.

Board Discussion

Richard Lewis stated that he would like to reiterate from his memo, that he believes the regulations should be change for gas pricing. He stated having to go out and manual change the numbers is changing with the times and it is safer to allow digital signs for gas prices only, as this is a commodity that is constantly changing. He stated that Benson's Auto, Garneau's and the Citgo on the hill put up their signage that is digital before the regulations changed. Benson's sign and Garneau's sign change characters but this sign would not. He stated that Cumberland Farms received a variance for their pump toppers to be put in and having changing characters. This type of sign is put in for safety of the employees and customers and for convenience for the employees. He stated he will be looking at changing some wording and sending it to the Planning Board and then the City Council for approval.

MOTION: Member Hodgdon moved and Member Weatherbee seconded that the Zoning Board of Adjustment approve the Variance application requests of HAJVARI Corp (Sarfrac Chaudhary) Owner; from Zoning Section 305-24. Signs, Item F.(1)(a) to allow digital gas pricing on their signage. The property is located at 80 North Main Street, Citgo Fast Food Mart, Tax Map/Lot # 098-096-00, B-1 Zone (Low- Density Business and Commercial District). The Board finds that the application requests meet the tests and criteria necessary for the granting of the Variance as spelled out in the draft decisions to approve which have been reviewed and approved, including any modifications, by the Board. All were in favor and the motion passed.

DRAFT Decision of Approval

The Franklin Zoning Board of Adjustment approves the variance application requests of HAJVARI Corp (Sarfrac Chaudhary) Owner; from Zoning Section 305-24. Signs, Item F.(1)(a) to allow digital gas pricing on their signage. The property is located at 80 North Main Street, Citgo Fast Food Mart, Tax Map/Lot # 098-096-00, B-1 Zone (Low- Density Business and Commercial District). The Board finds that the application request meets the tests and criteria necessary for the granting of a Variance in that:

1. The Variance will not be contrary to the Public Interest and the Spirit of the Ordinance is observed due to the facts that: this signage will not be moving or flashing characters. Additionally, the gas prices will only change a few times a week subject to the standard consumer prices.

2. **Substantial Justice is done** due to the fact that the approval will allow some flexibility due to the constant change in gas prices. This signage will allow the gas prices to be changed from within the confines of the building, thus creating a safer environment.
3. **The values of the Surrounding Properties are not diminished** due to the fact that this is a pretty common practice and signage of this nature has not diminished values of any other surrounding properties.
4. **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:**

Unnecessary hardship mean that, owing to the special conditions of the property that distinguish it from other properties in the area, then: i) No fair and substantial relationship exists between the general purpose of the ordinance provision and the specific application of that provision to the property; and ii) the proposed use is a reasonable one. The ordinance was put into place to protect those driving on the roadways from the distractions of flashing or changing characters or images. In the specific matter, the characters on the sign will only change when the price of gas changes. If the signage was going to be flashing and placed on the roadway, this would be a concern, as it could set a precedence and could be detrimental to drivers on the rights of ways. More importantly, the product being sold and advertised through this proposed signage, gasoline, is a unique and special product that is a required commodity for today's society, as opposed to the price of cigarettes, chicken, milk, hammers, tape, or paper.

The Variance approval is subject to the following conditions:

1. **The only information allowed or permitted through this variance is the digital gas pricing on a new sign to be erected, a design of which was attached to the application. No other images or characters, including but not limited to any flashing displays or pictures, are permitted.**
2. **The owner/applicant shall obtain a sign permit and a building permit or mechanical permit for this work.**

Planner's Update

Richard Lewis stated he received an email from the Staff at OEP who do the updated handbooks for the Zoning Board with the updates up to November 2014. He stated at the last meeting it was discussed that himself or Paul Fitzgerald do some training. He stated that portions of the OEP handbook or more from himself and Angie and dealing with every day office issues in Zoning. He stated if the board wants copies he can make copies. Angie stated that typically when we receive this, she makes copies of the Variance sections to hand out to the board and she will do that for them. The last handbook was 150 pages.

Other Business: None.

Public Comment:

George Dzujna was present to speak. He stated at the Council meeting it was brought up that the board was short a few members. He stated he has a few people in mind, with building backgrounds, that he is going to send down to the office.

Adjournment

MOTION: Member Hodgdon moved and Member Weatherbee seconded to adjourn the January 7th, 2015 meeting of the Zoning Board of Adjustment, at 7:25 p.m. All were in favor and the motion passed.

Respectfully submitted,

Angela M. Carey
Planning and Zoning Assistant
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