

**LONDONDERRY ZONING BOARD OF ADJUSTMENT
268B MAMMOTH ROAD
LONDONDERRY, NH 03053**

MINUTES FROM 07/17/19 MEETING

The meeting was called to order at 7:00 p.m. Members introduced themselves. The following members were present: Neil Dunn, Chair; Jacqueline Benard, Vice Chair; Suzanne Brunelle, member; and Brendan O'Brien, alternate member. Also, in attendance were Laura Gandia, Associate Planner. Chairman Dunn reviewed the hearing procedures and made B. O'Brien a voting member this evening.

I. APPROVAL OF MINUTES

B. O'Brien made a motion to accept the June 19, 2019, minutes as presented.

The motion was seconded by S. Brunelle

The motion was granted, 4-0-0.

II. REPORT BY TOWN COUNCIL – N/A

III. PUBLIC HEARING OF CASES

A. CASE NO. 5/15/19-3: Request for two variances from LZO 5.14.B to allow a six feet high fence in the front yard where only four feet is allowed and to allow that six feet fence to encroach 34.5 feet into the 40 feet front setback, Two Lonchester Way, Map 11 Lot 1, Zoned AR-1, Zachary Martineau and Gina Rauch (Owners & Applicants) – continued from the May 15, 2019 and June 19, 2019 meetings

N. Dunn read the case into the record noting it had been withdrawn by the applicant.

B. CASE NO. 7/17/19-1: Request for a variance from LZO 7.6.D.3.B.I to allow wall sign of 96 SF where only 40 SF is allowed, Four Orchard View Drive, Map 7 Lot 40-2. Zoned C-I, Vernco Apple, LLC (Owner) and Harvey Signs (Applicant)

B. O'Brien read the case into the record noting previous zoning cases. Phillip Naffah from Harvey Signs, 30 Osgood St. Methuen, MA introduced himself to the Board. P. Naffah said that they are requesting to

fill the square footage on the front of the store to make it more aesthetically pleasing, as they are occupying two store spaces where they could have 80 SF of signage. He said that it would be viewed better as requested especially with the location and height of the sign belonging to the neighboring tenant, Extreme Craze.

He then reviewed the five criteria for the granting of the variance:

- (1) The granting of the variance is not contrary to the public interest: because it will not threaten the health, safety or welfare of the general public.
- (2) The spirit of the ordinance is observed: because it will not affect any other businesses in the mall.
- (3) Substantial justice is done: because the loss to the applicant would be more than any gain to the general public.
- (4) Values of surrounding properties are not diminished: because it will only increase the visibility of the store.
- (5) There is no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the property is unique as it is taking up two tenant spaces and it is reasonable to request a larger sign. He stated that the proposed use is a reasonable one.

Chairman Dunn asked if the Board had any questions. J. Benard asked if the 96 SF calculated the green stripes. P. Naffah said it did not, it is only the linear length of the sign itself and not the green stripes. J. Benard asked if the sign would be LED illuminated. P. Naffah said it would not. N. Dunn asked why the 80 SF could not be accomplished. P. Naffah said that when their standard sign is scaled for this building, it comes out to 96 SF. N. Dunn said it looked like the space between the words dollar and tree was not calculated in the 96 SF. P. Naffah reviewed the calculations and it all is encompassed in the rectangle.

S. Brunelle asked P. Naffah for more clarification on hardship. P. Naffah said that if someone was coming into the plaza by vehicle by Benson's hardware, the company would want the tallest lettering visible to ensure that customers know where it is located. J. Benard asked if P. Naffah could scale the sign to 80 SF. P. Naffah said he could not using the brand font the design team normally does, stating that is why they are asking for 96 SF. N. Dunn voiced his concern for the future of this space when Dollar Tree is gone. L. Gandia offered the option of a condition relating to the number of units occupied.

Chairman Dunn asked for public input and there was none.

The Board closed public input and began its deliberation.

- (1) The variance would not be contrary to the public interest: because it would not threaten the health, safety or welfare of the general public.
- (2) The spirit of the ordinance would be observed: because it would threaten the health, safety or welfare of the general public.
- (3) Substantial justice would be done: because the loss to the applicant is greater than any gain to the public.
- (4) Values of the property would not be diminished: because it would not alter the essential character of the neighborhood.
- (5) There is no fair and substantial relationship that exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: because the property is unique as it is one tenant, but there are two tenant sign slots that could be used. The proposed use is a reasonable one.

B. O'Brien made a motion in CASE NO. 7/17/19-1 to grant a variance from LZO 7.6.D.3.B.I to allow wall sign of 80 SF where only 40 SF is allowed, Four Orchard View Drive, Map 7 Lot 40-2. Zoned C-I, Vernco Apple, LLC (Owner) and Harvey Signs (Applicant) with the following condition:

1. The maximum square footage is 80 SF while this is a single business occupying two tenant spaces.

J. Benard seconded the motion.

The motion was granted, 4-0-0. The applicant's request for a variance was granted.

C. CASE NO. 7/17/19-2: Request for a variance from LZO 7.7.E.3 for the installation of a changeable electronic message board sign for a gas station, Eight Nashua Road, Map 10 Lot 140, Zoned C-II, Aranosian Oil Company, Inc. (Owner) and NH Signs (Applicant)

B. O'Brien recused himself from this case. S. Brunelle read the case into the record noting the previous cases. Peter March from NH Signs, 66 Gold Ledge Ave, Auburn, NH addressed the Board. P. March asked the Board if all three cases he has tonight for the same variance could be presented at the same time. N. Dunn said that they could not as each one is different and will be taken separately. N. Dunn told the applicant that there are only three voting members and he would need a unanimous vote to have the variance granted. He said the applicant could request the case to be continued until next month as there may be more voting members at that time. P. March said he would continue with the case this evening. He noted that the sign is currently 18 feet 10 inches tall and is non-conforming. He noted they are looking to re-face the price portion of the sign with electronic price changers pointing out that this will not

change the height of the sign. He said that the LED price changers will display fuel prices only and can be done from inside the building, which increases the safety of the employees. He said the price changers cannot flash or rotate.

He then reviewed the five criteria for the granting of the variance:

- (1) The granting of the variance is not contrary to the public interest: because it will not encourage visual clutter and promote economic growth by attracting new businesses to an industrial environment. He said it would not threaten the health, safety or welfare of the general public.
- (2) The spirit of the ordinance is observed: because it will not encourage visual clutter and enhance the aesthetic environment of Londonderry.
- (3) Substantial justice is done: because the loss to the applicant would be more than any gain to the general public.
- (4) Values of surrounding properties are not diminished: because a digital sign is new and more visually appealing while the sign structure remains unchanged and would not diminish any property values.
- (5) There is no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the sign is non-conforming, the zoning ordinance interferes with the property owners reasonable use, he would have to buy a new sign, which would cost substantially more money and be limited by the outdated manual signs. He stated that the proposed use is a reasonable one.

Chairman Dunn asked for questions from the Board. J. Benard asked how many times a sign could be changed throughout the day. P. March said it does vary, but he thought it would be two to three times a day. Floyd Hayes, Aranosian Oil Company, Inc., addressed the Board. F. Hayes said it can change about once per week on average. N. Dunn asked L. Gandia if the applicant had already gone to building and was denied a permit. L. Gandia said that she did not know if he went to building for a permit. N. Dunn asked P. March if he applied for a permit. P. March said that he did and the electronic changes were denied. N. Dunn said that normally there would be a letter in the file, but he cannot find one tonight. P. March said that he is before this Board tonight because of the Building Department denial.

Chairman Dunn asked for public input and there was none.

The Board closed public input and began its deliberation. N. Dunn said that he was concerned with no official ruling from Building in the file, as normally when a non-conforming sign is going to change, they like to try and make it conform. He asked if all three cases P. March is presenting tonight are the same with non-conforming signs that wish to stay the same height. P. March said that was correct, all three signs are legally pre-existing, non-conforming signs in their height and there is no request to change the height. The Board discussed procedurally what may happen if variances were granted and additional

ones were necessary. J. Benard voiced her concern that the applicant might have to come back if this was not properly reviewed by Building Department. N. Dunn said that he was uncomfortable with the applicant referencing the fact that the sign is non-conforming in the application but not addressing this fact in the request and it could be assumed the Board granted the non-conforming size. He said that if the application only mentioned the LED price changers, it would be different. The Board and the applicant discussed a possible continuance to get input from the Richard Canuel, Code Enforcement Officer. The Board agreed to continue the case and allow the applicant to get input from the Richard Canuel.

J. Benard made a motion to continue CASE NO. 7/17/19-2 until August 21, 2019, for further clarification from Richard Canuel regarding the background information of the non-conforming sign, for a variance from LZO 7.7.E.3 for the installation of a changeable electronic message board sign for a gas station, Eight Nashua Road, Map 10 Lot 140, Zoned C-II, Aranosian Oil Company, Inc. (Owner) and NH Signs (Applicant)

S. Brunelle seconded the motion.

The motion was granted, 3-0-0. The applicant's request for a variance was continued until August 21, 2019.

D. CASE NO. 7/17/19-3: Request for a variance from LZO 7.7.E.3 for the installation of a changeable electronic message board sign for a gas station, 231 Rockingham Road, Map 15 Lot 149, Zoned C-II and RTE 28 POD, Aranosian Oil Company, Inc. (Owner) and NH Signs (Applicant)

B. O'Brien recused himself for this case. J. Benard read the case into the record.

J. Benard made a motion to continue CASE NO. 7/17/19-3 until August 21, 2019, for further clarification from Richard Canuel regarding the background information of the non-conforming sign, for a variance from LZO 7.7.E.3 for the installation of a changeable electronic message board sign for a gas station, 231 Rockingham Road, Map 15 Lot 149, Zoned C-II and RTE 28 POD, Aranosian Oil Company, Inc. (Owner) and NH Signs (Applicant)

S. Brunelle seconded the motion.

The motion was granted, 3-0-0. The applicant's request for a variance was continued until August 21, 2019.

E. CASE NO. 7/17/19-4: Request for a variance from 7.7.E.3 for the installation of a changeable electronic message board sign for a gas station, 137 Rockingham Road, Map16 Lot 66, Zoned C-II, Aranco Realty, Inc. (Owner) and NH Signs (Applicant)

B. O'Brien recused himself for this case. J. Benard read the case into the record.

J. Benard made a motion to continue CASE NO. 7/17/19-4 until August 21, 2019, for further clarification from Richard Canuel regarding the background information of the non-conforming sign, for a variance from 7.7.E.3 for the installation of a changeable electronic message board sign for a gas station, 137 Rockingham Road, Map16 Lot 66, Zoned C-II, Aranco Realty, Inc. (Owner) and NH Signs (Applicant)

S. Brunelle seconded the motion.

The motion was granted, 3-0-0. The applicant's request for a variance was continued until August 21, 2019.

F. CASE NO. 7/17/19-5: Request for a variance from 7.6.D.5.d to allow a free standing sign to be placed 0 feet from the property line where 10 feet is required, 6A Kitty Hawk Landing, Map 17 Lot 5-6, Zoned IND-I, Falling Water, LLC (Owner) and Jutras Signs (Applicant)

B. O'Brien came back to the Board for this case. He read the case into the record noting no previous zoning cases. There was no one to present the case this evening to the Board. The Board discussed continuing the case.

J. Benard made a motion to continue CASE NO. 7/17/19-5 until August 21, 2019, due to an absence of the applicant, for a variance from 7.6.D.5.d to allow a free standing sign to be placed 0 feet from the property line where 10 feet is required, 6A Kitty Hawk Landing, Map 17 Lot 5-6, Zoned IND-I, Falling Water, LLC (Owner) and Jutras Signs (Applicant)

B. O'Brien seconded the motion.

The motion was granted, 4-0-0. The applicant's request for a variance was continued until August 21, 2019.

II. Other business: N/A


Adjournment:

J. Benard made a motion to adjourn at 8:40 p.m.

B. O'Brien seconded the motion.

The motion was granted, 4-0-0. The meeting adjourned at 8:40 p.m.

RESPECTFULLY SUBMITTED,



CLERK

TYPED AND TRANSCRIBED BY Beth Morrison, Recording Secretary.

APPROVED (X) WITH A MOTION MADE BY J. Benard, SECONDED BY J. Tigabass, 3-0-2