

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

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5 DATE: JANUARY 20, 2016
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7 CASE NO.: 1/20/2016-2
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9 APPLICANT: GTY MA/NH LEASING, INC.
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11 LOCATION: 12-14 NASHUA ROAD, 10-138-2, C-11
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13 BOARD MEMBERS PRESENT: JIM SMITH, CHAIRMAN
14 JACKIE BENARD, VOTING MEMBER
15 JIM TIRABASSI, ACTING CLERK
16 JACKIE BENARD, VOTING MEMBER
17 NEIL DUNN, VOTING MEMBER
18 SUZANNE BRUNELLE, VOTING MEMBER
19 BILL BERARDINO, NON-VOTING ALTERNATE
20
21 ALSO PRESENT: RICHARD CANUEL, SENIOR BUILDING INSPECTOR/ZONING
22 ADMINISTRATOR/HEALTH OFFICER
23
24 REQUEST: GTY MA/NH LEASING, INC REQUESTS A VARIANCE TO ALLOW AN
25 EXISTING FREESTANDING SIGN TO DISPLAY ELECTRONIC LED
26 CHANGEABLE COPY WHERE OTHERWISE PROHIBITED UNDER SECTION
27 3.11.7.E.3. 12-14 NASHUA RD, 10-138-2
28
29 PRESENTATION: JIM TIRABASSI READ THE CASE INTO THE RECORD. 14 PREVIOUS CASES
30 READ INTO THE RECORD. NO LETTERS.
31

32 JIM SMITH: I would like to find out so that we could change that, so that we would only have to read those
33 cases which are pertinent to. Any idea on that, Richard?
34

35 RICHARD CANUEL: To tell you the truth, I do not see any reason why you need to recite each and every one
36 of the cases to begin you, you could merely state you know five previous various cases granted, two previous
37 variances denied, something to that effect.
38

39 JIM SMITH: I can understand the ones that have some sort of similar issues but those from the motel don't
40 see to make a lot of sense, rightwe will look into that in the future, I guess. Ok, who will be presenting?
41

42 MARK GROSS: Mr. Chairman, I will be, for the record. My name is Mark Gross with MHF Design Consultants
43 with an address of with an address 44 Stiles Road, Salem, NH and also with me this evening is
44 Peter March from NH Signs.

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PETER MARCH: I am Peter March from NH Signs 60 Old Derry Road, Derry, NH.

MARK GROSS: Mr. Chairman and members of the board, we are here representing Getty MA/NH Leasing Inc. on the variance application that is before you. In your packet, there is a copy of the plan that you see down here which depicts the existing sign and then proposed sign. If you have any questions about that can answer them now or I can go through my presentation and go through the five criteria. So, if there are no questions. We are requesting a variance from section 3.11.7.E.3 of the zoning ordinance for the following reasons to allow an existing freestanding sign to display the price per gallon for fuel with electronic led changeable copy where changeable electronic message board signs are prohibited under this section of the ordinance. And what I will do is go into the five criteria, the variance will not be contrary to the public interest because the display of the price of gas is required by state law and will utilize LED technology for the changeable copy. And that is the pricing only. It will allow travelling motorist to see the price of gas prior to entering the site because gas prices fluctuate frequently and it will be much easier to keep up with the fluctuations using the LED technology that can be changed electronically more easily versus using changeable copy that historically was done manually. It is in the public interest to allow the LED pricing since it will provide a reliable and visual display of the pricing that the travelling public will be able to see as well as keeping up with the changing technology that is currently being used in other surrounding communities and and will adhere to the legal rules as outlined in RSA 674:19 which is the applicability of zoning ordinance as it relates to the subsequent changes made to any applicable ordinance not being applicable to a legally preexisting structure if the use is not substantially different than the current use. So again from the public interest, this is considered a legally, a legal preexisting structure when it was constructed. It was constructed in accordance with the zoning ordinance at the time in terms of height, area and such. And I have also included a copy of the RSA for your reference in the packet.

JIM SMITH: Before you go beyond that, um...to say this is a legally preexisting sign, what you are showing there are two different signs, one being substantially smaller than the first one.

MARK GROSS: Right, and the reason for that is the way, when this sign was originally built which was probably in early 1990s, the wrapping of the post was how they did the signs and new , the way they do these signs now and Peter can probably speak to this is the actual sign panel goes in between an existing post. So there is no change in height and the reason the area goes down is because you are not counting to the outside of the post you are counting the panels that are inside the post.

PETER MARCH: It uses the same post as before.

MARK GROSS: So it would not be considered a new sign because you are actually refacing the existing sign. The thing we are here for this evening is for the LED because that is the quote-unquote change from manual letters to the LED lighting. Under two, the spirit of the ordinance is observed because the only part of the signage that is considered a changeable copy, the signage would be the gas pricing and it would only be changed electronically when the gas prices change which at times could be daily, weekly or monthly depending on the market fluctuations. The LED lighting for these prices would be steadily lit with no moving and/or flashing elements. In accordance with section 3.11.6.D.3.A of your ordinance reads as follows, and this is a direct, within the commercial I, II and III and MUC sub districts, signs are permitted as follows, (a) one free standing sign for each developed parcel up to a maximum of 65 square feet of the total sign face area

90 allowed, 75% may be used for changeable signage. This site is within the C-II district; therefore, it is allowed
91 changeable signage which the gas pricing would be defined as. Additionally, in the ordinance under
92 definitions, the following applies, sign changeable copy, this is your definition, a sign or portion thereof
93 designed to accommodate message changes composed of characters, letters or illustrations that can be
94 changed or rearranged either manually or electronically without altering the facias surface of such sign.
95 Additionally, the pricing element does not have any aspects specifically prohibited and which are typical of
96 electronic message boards, such as animated, flashing or moving elements. The spirit of the ordinance would
97 be observed because under RSA 674:19 Applicability of Zoning Ordinance, zoning ordinance adopted under
98 RSA 674:19 shall not to apply to existing structures which shall also include signs or to the existing use of any
99 building unless the alteration of the building or use for a purpose or in a manner that is substantially different
100 from use to which it was put before the alteration. Therefore, replacing the manual pricing aspect of the sign
101 and allowing the proposed LED pricing aspect to the sign as proposed would be within the spirit of the
102 ordinance and would conform to the requirements under RSA 674:16. Substantial justice is done because it
103 will allow the pricing element to be displayed such as it would be visible from the adjacent roadway and
104 travelling public and it meets more of the technical definition of changeable copy signage which is allowed
105 than the definition of electronic message boards. More importantly, substantial justice is done because it will
106 be in keeping with RSA 674:19, Applicability of Zoning Ordinance which states, a zoning ordinance adopted
107 under RSA 674:16 shall not apply to existing structures, signs included, or to the existing use of any building.
108 It shall apply to any alteration of a building for quote use for a purpose or in a manner which is substantially
109 different from the use to which it was put before the alteration. In this case, the changing of the sign from
110 manual pricing to LED pricing is not substantially different in use or purpose from the use or purpose it was
111 put before the alteration. Therefore, substantial justice will be done by adhering to the requirements under
112 RSA 674:19. So, in other words, if it is a manual, it's pricing done manually. We are not substantially
113 changing the use of that because we are still doing the pricing. It is just a different manner of showing it. So,
114 it is not substantially different. Four, the values of surrounding properties will not be diminished because the
115 pricing aspect of the signage is not obtrusive. It is a small part of the overall signage and the LED lighting
116 aspect will not be overpowering to the rest of the existing or surrounding signs. This type of signage for
117 pricing is unique to this particular use as gas fueling facility as opposed to any other type of retail facility. I
118 will also point out that we have indicated other presentation, the actual lighting of the LED is actually less
119 intense than any other type of lighting that you would put in there for that. Under (5), literal enforcement of
120 the provisions of the ordinance will result in unnecessary hardship because the special conditions of this
121 property that distinguish it from other properties in the area are as follows: the subject property is
122 developed under previous sign regulation and the sign permit was issued for the sign. The existing sign
123 predates the zoning ordinance regarding LED signage, electronic reader boards, sign language and is
124 considered a legally preexisting sign in accordance with section 3.11.8 preexisting signs. So it is considered a
125 legal preexisting nonconforming sign at this point. Based on the sign status as legally pre-existing sign as
126 defined in the sign ordinance, the change in the pricing from manual letters to LED numbers would qualify
127 under RSA 674:19 which is the Applicability of Zoning Ordinance which states again a zoning ordinance
128 adopted under RSA 674:16 shall not apply to existing structures which signs are included or other existing use
129 of any building. It shall apply to an alteration of a building for use of a purpose or a manner that is
130 substantially different from the use to which it was put before the alteration. In this case, it is not
131 substantially different in the use or the purpose. Under this statute, the legal rules from when a non-
132 conforming use can be changed or expanded are as follows, this is from, directly, from the state statute in
133 terms of four items that you have to meet the standard. So under (a) the proposed change arises naturally,
134 in other words, through evolution such as new and better technology out of the grandfathered use. In the

135 case of this request, this rule is met given that replacement of the pricing from manual numbering to LED
136 numbering and subsequent changing based on only fuel pricing changes arises naturally through changing
137 technology which allows the change in pricing electronically rather than manually. So it does meet that
138 standard in terms of its, through evolution, which indicates new or better technology and obviously, the
139 electronic pricing is an evolution of the technology. Technology has changed significantly in the use of these
140 changeable copy pricing signs in the state of the art technology which is not only energy efficient in the use of
141 LED technology but also provides an easier method of changing prices which is required in a frequently
142 fluctuating retail gas sales market. The intent is to allow changes that are not substantially different and to
143 allow these changes to occur as technology evolves so that the owner can continue to utilize their property to
144 their benefit. It is required for the purpose making the existing use more available to the owner or does it
145 constitute a new and different use? In the case of this particular sign, the change of the pricing from manual
146 to LED changeable copy signage will make the existing use more available to the owner in terms of keeping
147 up with the technology, efficiency of operations and meeting Shell Corporate standards which are intended
148 to be consistent from station to station throughout the country. As stated in RSA 674:19 this prong of the
149 rules was phrased as whether the use at issue is nearly a different manner of utilizing the same use, which it
150 is or constitutes a use different in character, nature and kind which it does not. It is clear that the issue of the
151 use of LED changeable copy signage is just a different manner of displaying the pricing and does not
152 constitute a use different in character, nature or kind. On the third prong of the criteria, will the change or
153 expansion render the premises proportionately less adequate for the use in terms of the requirement of the
154 ordinance? The change of the pricing from manual to electronic will actually render the premises
155 proportionately adequate by allowing the business to utilize new technology that is required by Shell
156 Corporate brand which they sell that is in use in many other Shell stations. The fourth prong of the criteria
157 under the state law: will the change or expansion have a substantially different effect, impact on the
158 abutting properties or in the neighborhood? The change in how to display the pricing is minimal and will not
159 have a substantially different effect or impact on abutting properties or the neighborhood since the property
160 is zoned commercial and is adjacent to the highway; therefore, it will not have any substantial or noticeable
161 impact on the surrounding neighborhood and I would also like to indicate that the new signage because of
162 the way the panels are and the area is reduced. It actually brings the area of the sign in conformance with
163 what your requirements are. So if you look the existing sign is 78 square feet as it is currently measured and
164 it brings it into conformance to 57.3 just by virtue of how the sign now is... or the signs panels are
165 constructed. For the purpose of this subparagraph, unnecessary hardship means that owing to the special
166 conditions of the property that distinguish it from other properties in the area, there is no fair and substantial
167 relationship that exists between the general public purposes of the ordinance and the specific application of
168 the provision to the property because the existing sign is considered a legally pre-existing sign as defined by
169 the town's sign ordinance and therefore is not subject to any zoning ordinance changes subsequent to the
170 date of the permit to erect that sign based on RSA 674:19 and the criteria that is established under this
171 statute. Those criteria established in the above section are meant for this particular type of application and
172 those are the four criteria that I read to you at the beginning. Therefore, there is no fair and substantial
173 relationship to the proposed pricing aspect of this sign and its definition by the building inspector as an
174 electronic reader board messaging sign to the general public purposes outlined in the sign ordinance because
175 the method by which the pricing aspect of the sign is achieved does not render the use of the sign
176 substantially different and still provides legal rules for when a non-conforming use can be changed or
177 expanded under RSA 674:19 which is the Application of Zoning Ordinance. Those legal rules as described
178 above provide for the natural progression of the proposed change to the use of new and better technology
179 making the use of the sign more available to the owner without constituting a new or different use, does not

180 render the property less adequate for the use in terms of other aspects of the ordinance and will not have a
181 substantially different impact on the abutting properties or the neighborhood. The proposed use is a
182 reasonable one because the property owner will be allowed the pricing aspect of the signage which is
183 required and it can be seen from the adjacent roadway and by the travelling public utilizing this facility. More
184 importantly, it will meet the legal rules as outlined in RSA 674:19 which will allow for sign changes proposals
185 without being made subject to the sign ordinance changes made after the effective date of the original sign
186 permit. So, I just want to point out one other thing and it is when you get off exit 4, this is on the east side.
187 For all intent and purposes, when you get off of exit 4, literally the site is the first commercial site on the left
188 and then Burger King and the Derry town line is literally 400 or 500 feet down. So from a perspective point of
189 view, this is kind of isolated section of the town of Londonderry in terms of that commercial section. So far a
190 perception point of view, the unique, some of the uniqueness is location. It is located on the other side of 93
191 away from really the majority of the commercial part of Londonderry. So the perception is you know, the
192 uniqueness is it is kind of isolated. This area of Londonderry is somewhat isolated from the rest by the fact
193 that 93 divides Londonderry in this particular location. So, I just wanted to give that as an observation. So,
194 that concludes my presentation. If the board has any questions, I will be glad to answer them.
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196 NEIL DUNN: Mr. Chairman, if I may? So, if we talk about this changing technology. I just want to get a better
197 handle because the next applicant might come in and say, well, those big pictures and the animated milk...by
198 telling how low milk price is, is new technology. So how do we draw the line on that? Only because you are
199 using new technology and to me you could argue that that is new technology and I do not think that is what
200 we want here in Londonderry.
201

202 MARK GROSS: Because in this particular case, it has to be an existing sign, that was legal at the time. So the
203 only that could happen is that there was a sign that had that type of what you just described...um...other
204 than electronic that was not allowed back then in the early 90s. I do not know.
205

206 NEIL DUNN: No, it was more to the technology factor. You could take LEDs and now they can become pixels
207 and you can make them anything do you want. So I am trying to limit it to, in my head, yes, just doing
208 numbers for the pricing is basically your changeable copy is a good argument but how do we keep it from
209 going further and because of so much of changing technology and in the statute you are quoting or
210 referencing..
211

212 MARK GROSS: Because, to take the manual pricing and it is only for the pricing aspect and say that someone
213 would come in and want to do something different other than pricing. You would not be able to.
214

215 PETER MARCH: These signs are only capable of showing digits. They can't show letters, they can't show
216 pictures. They are purely...
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218 NEIL DUNN: And that is what I am trying to make sure that is what they stick with and because we are talking
219 technology and LEDs you put in enough small LEDs and they become pixels. So yes, that is what my thought
220 would be if I was told prove this that would limit it very specifically because there is so much talk technology
221 and changing. So that is a big part of the argument so I am just trying to get a handle on how
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223 [OVERLAPPING COMMENTS]
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225 PETER MARCH: But it is totally different type of technology. The type of sign that you see up on
226
227 [OVERLAPPING COMMNETS]
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229 NEIL DUNN: But the argument is general technology not specific...we do not enough about the specific one
230 so that is why I am trying to narrow it in is. That is all I am saying...
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232 [OVERLAPPING COMMENTS]
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234 NEIL DUNN: ...so I am trying to get some feedback to you that that is a different kind of application.
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236 PETER MARCH: If you wanted to make a restriction that this only displays numbers not letters that would
237 cover that... [INAUDIBLE]
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239 NEIL DUNN: And that is what I am getting to because this argument and use of statute that says new
240 technology to me is...
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242 MARK GROSS: But you have to meet all four prongs of that state statute.
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244 NEIL DUNN: And the second thing you seem to do a lot with is Shell's standards and that. So would they have
245 overriding power over local ordinance? Is that what you are implying?
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247 MARK GROSS: No, what we are saying is that they like to be consistent. So that in order for better use of the
248 property, they want to have all of their signage consistent. So it goes to...
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250 NEIL DUNN: From a technical legal point of view it really has no impact here or it just is in there to let us
251 know that Shell cares?
252
253 MARK GROSS: Well, it also goes to...um...it is required for making the existing use more available to the
254 owner. So that to me, making it more available to the owner, you need to make all your sites pretty much
255 consistent. So it does make it more available. So it really is that it sis the second prong of the state law.
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257 NEIL DUNN: Whose the owner, Shell or...
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259 MARK GROSS: [INAUDIBLE]...No, I am sorry, it is Getty MA/NH Leasing which Shell is also a part of that
260 franchise business.
261
262 NEIL DUNN: Back to this technology argument. If they came back and said we want streaming colors and I
263 know that you saying that sign you are putting in today won't do it. I am just trying to figure out how, why
264 we are throwing in Shell and their requirements because I do not see where that is really...
265
266 MARK GROSS: Well, it is not theirs, just specific, it is for gas stations in general whether it be Shell Mobile.
267 They all want to have their signage, their logo consistent.
268

269 NEIL DUNN: I understand that. Everybody wants a consistent brand but when you throw it in there as part of
270 the regs. It looks, ok, I am just getting background...to me it seems fluffy. Thank you.
271
272 JIM TIRABASSI: I've got a question?
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274 JIM SMITH: Go ahead.
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276 JIM TIRABASSI: Aside from the new technology, this is basically the same footprint of the old sign?
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278 PETER MARCH: That is correct.
279
280 JIM TIRABASSI: The only difference is going to be the new manufacturing technology which is the actual sign
281 itself which is going to be an inside dimension as opposed to outside and top dimension.
282
283 MARK GROSS: That is correct.
284
285 JIM TIRABASSI: Ok, so nothing else is going to change, the poles will change because...
286
287 MARK GROSS: The height is not changing.
288
289 JIM TIRABASSI: Excuse me.
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291 MARK GROSS: The height is not changing.
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293 JIM TIRABASSI: No, no, so nothing else.
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295 MARK GROSS: Right
296
297 JIM TIRABASSI: You are physically going to remove everything that exists there. Put in all new standards and
298 signage. But you are basically just replacing the exact same thing.
299
300 MARK GROSS: That is correct.
301
302 JACKIE BENARD: Mr. Chairman, so the new sign...the Shell is that going to be lit and Dunkin Donuts will be lit?
303 So those will be lit and then...
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305 JIM SMITH: So do you want to say something...
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307 PETER MARCH: Yes.
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309 JACKIE BENARD: It will, ok and then the food mart area that will be lit?
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311 PETER MARCH: That is correct.
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313 JACKIE BENARD: Car wash will be lit and ATM will be lit?

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PETER MARCH: That is correct.

JACKIE BENARD: So that whole sign will be lit.

JIM SMITH: Is the present sign lit?

PETR MARCH: The present sign is also lit.

MARK GROSS: Internally.

PETER MARCH: The whole sign is lit.

JACKIE BENARD: Ok, thank you.

PETER MARCH: May I note that one of the other differences is that they height of the sign cabinets reduces from 189 inches to 172 inches so that also reduces it in size.

SUZANNE BRUNELLE: So, you are heavily relying on RSA 674:19. Do you have any case law that supports that?

PETER MARCH: The New London Land Use Association vs. the New London ZBA derived those key points. The other...

SUZANNE BRUNELLE: Excuse me. What is the year on that decision?

PETER MARCH: Um...1988.

SUZANNE BRUNELLE: Ok. Any others?

PETER MARCH: Do not want to get into an argument with a lawyer... [LAUGHTER]

SUZANNE BRUNELLE: Again, he recited at least a dozen times in his argument that basically the ordinance does not even apply because it is a pre-existing sign. So that...

[OVERLAPPING COMMNETS]

MARK GROSS: The other one that is listed is Town of Jackson vs. Town and Country Motor Inn, Inc. 1980. It says that Jackson's ordinance requiring removal of a pre-existing sign was held pre-empted by RSA 674:19 because signs are structures so.

PETER MARCH: Ray's State Line Market vs. Town of Pelham which is 1995, New Hampshire Supreme Court case refers to the extent of an expansion, a natural expansion...

SUZANNE BRUNELLE: On a sign?

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PETER MARCH: No, um...it was actually a sign. I do not think it really matters whether it was a sign or a structure or both but this was in fact a big coffee counter.

SUZANNE BRUNELLE: So, your argument is that because your sign is pre-existing that that RSA allows you to change it? And that would apply not only to you but to everyone single person in this town that has a pre-existing sign....

MARK GROSS...a legally pre-existing sign.

SUZANNE BRUNELLE: that wants to make a change? Ok. Is the, both sides of that sign the same? What the plan for the new sign? The LED will be on both sides?

PETER MARCH: Yes. In general, in signage, they are always the same. I mean it is very, very rare to find a sign that is not the same...

SUZANNE BRUNELLE: ...same on both sides...I am going to continue to ask the questions?

PETER MARCH: That is fine. You might come across one [LAUGHTER].

JIM SMITH: Your basic argument is that you are changing the manual numbers to an electronic numbers and that is the only thing you are changing.

PETER MARCH: We are changing the nature of the sign faces as well we are as reducing size. We are pulling them into...the sign poles...no longer part... part of the area of the sign because the actual sign facias and sign cabinets are now inside the pole area.

MARK GROSS: But you are correct, the only change in the sign in terms of what is not allowed in the ordinance is the LED pricing.

NEIL DUNN: If I may? The older sign which you have a picture with the gray in there...that was also lit then? The gray area?

PETER MARCH: Yep.

NEIL DUNN: So this one being white. Is it more translucent and going to actually have higher lumens and be more visible or harsh if you will? I mean...

PETER MARCH: I do not believe so, no. Particularly because it is small among other things.

SUZANNE BRUNELLE: So, your sign, the older one, what is actually illuminant is car wash because the rest of it is gray. So that is what would actually illuminate and then what illuminates food mart and the price diesel then regular would be lit.

PETER MARCH: That is correct.

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SUZANNE BRUNELLE: In your new sign, all of those items are all back lit because food mart is now green so that would mean that all of the white is illuminated, correct?

PETER MARCH: Could I...

SUZANNE BRUNELLE: And, I think that will help answer your questions as well because it is still not clear...voltage, wattage...

MARK GROSS: Obviously, if that is an issue which really does not relate to this at all...um...then those same...that same text can be illuminated...so in other words, the Shell itself the pectin itself...could just be illuminated. Um...what is it now on the existing? Is it the whole panel? So, in other words, the difference is you're reversing what is illuminated and what isn't?

SUZANNE BRUNELLE: That was, that exactly was my question because I understand what you are here for...

MARK GROSS: Background was not illuminated on the existing but the words were in this case the background is illuminated...

[OVERLAPPING COMMNETS]

SUZANNE BRUNELLE: Ok, and I understand your purpose as to why you are here but I want clarification, too on the new sign because that has to really being acknowledged as well because that is not the only thing that is changing because we are going to flip flop now.

MARK GROSS: We don't have to. We could do this so that just the lettering on these panels show up according to Peter.

SUZANNE BRUNELLE: Ok, great. Thank you very much.

JIM SMITH: The actual heights of the two signs were identical, correct?

MARK GROSS: That is correct.

JIM SMITH: OK. Top to bottom of the side panels are changing from 189 to 172?

MARK GROSS: That is correct.

JIM SMITH: So, it is reduced in both width and height. So that is how you get your reduction in total square footage.

MARK GROSS: Also, if you look, the old sign had Bank of America that was illuminated.

JIM SMITH: That seems to translate into ATM.

449 BM: Yeah, probably.
450
451 SUZANNE BRUNELLE: Yes.
452
453 [LAUGHTER]
454
455 MARK GROSS: Maybe they did not have ATMs back then. Well...
456
457 JIM SMITH: I was kind of looking at that myself and I finally related those two together and decided one
458 replaces the other because otherwise you would have the same. You got carwash, food mart, Bank of
459 America and now you got food mart, car wash, ATM. So, essentially the same.
460
461 MARK GROSS: ATM replaced the bank. Same thing.
462
463 SUZANNE BRUNELLE: New technology.
464
465 JIM SMITH: What?
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467 SUZANNE BRUNELLE: New technology
468
469 JIM SMITH: So, this way they could use an ATM from anywhere versus a particular chain, I guess.
470
471 MARK GROSS: No need to wait in line for a teller.
472
473 JIM SMITH: Any further questions? I will open it up to the audience. Anyone in favor? Anyone in opposition
474 or have any questions?
475
476 [INAUDIBLE]
477
478 JIM SMITH: I will bring it back to the presenters. Anything further you want to say? Anything further from
479 the board? At this point we will close the public hearing and we will discuss it.
480
481 **DELIBERATIONS:**
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483 JIM SMITH: Ok. Should we discuss the first one? The variance will not be contrary to the public interest
484 because...
485
486 NEIL DUNN: Because other towns are using it.
487
488 JACKIE BERNARD: Other towns are also not using it.
489
490 [OVERLAPPING]
491
492 JACKIE BENARD: It is a hot topic that I know other towns that had to make a decision.
493

494 NEIL DUNN: um...when you put it all together in the big package. It's really, as long as we can put that
495 restriction. This whole argument over technology being a natural evolution and references in this case and
496 this RSA. I am not comfortable with that and that blow up into my point. You put enough LEDs, you got
497 pixels, you can make whatever you want. So there fine with it being just the numbers and so in that case, I
498 think it is true to what they are talking to and to the public interest and it always ties back to spirit, too. If we
499 are only looking at the numbers and we are not making this big flashy...top of South Willow Street off the exit
500 ramp.

501
502 BILL BERARDINO: Yeah, but isn't that whole 172 inches going to white and lit up.

503
504 NEIL DUNN: That is probably going to be...I think that is where I was going and Jackie was going with it. It
505 would be much brighter...

506
507 JACKIE BENARD: Yes...

508
509 NEIL DUNN: ...and they seem to be agreeable to maintaining the dark with the light coming through on the
510 existing...

511
512 JACKIE BENARD: ...on the writing again...

513
514 BILL BERARDINO: Ok, so they will flip that so that

515
516 [OVERLAPPING COMMENTS]

517
518 JIM SMITH: So we will have to write that in as a restriction...

519
520 NEIL DUNN: Absolutely.

521
522 JACKIE BENARD: Correct.

523
524 BILL BERARDINO: Because now you are looking at one big lit up sign.

525
526 NEIL DUNN: Exactly. That was my...

527
528 BILL BERARDINO: With five or six different things on that.

529
530 SUZANNE BRUNELLE: We will have five different signs in that area...they will come in one after the other.

531
532 JACKIE BENARD: And that was something they skirted around till we sort of pointed it out and that is a
533 concern because the old sign and they base their case on that...that they are not changing anything other
534 than but they really are. But they have no problem with that restriction so then it brings it to more a true
535 statement that the only thing was the LED changeable price with fuel.

536
537 BILL BERARDINO: So the bottom half would be flipped over that the letters are the only things that are lit up.

538

539 JACKIE BERNARD: Correct. They would agree to that.
540
541 BILL BERARDINO: What's going to be at the bottom? What is it going to be surrounded by?
542
543 JACKIE BENARD: They were going to do the dark again...
544
545 BILL BERARDINO: Dark again...
546
547 JACKIE BENARD: Yeah.
548
549 JIM SMITH: The same with those [INAUDIBLE]...
550
551 NEIL DUNN: But I think only with those stipulations does number one become not contrary to the public
552 interest.
553
554 JACKIE BENARD: That's correct.
555
556 JIM SMITH: Okay, anybody else have comments?
557
558 SUZANNE BRUNELLE: I have a problem because once this one goes in. Mobile will be in here next because
559 they are right across the street. And it is nice to make the argument that the line stops right there but there
560 is three more gas stations in that... [INAUDIBLE]
561
562 NEIL DUNN: And there's more up the strip but if we are looking at our own definition. Based on what was
563 presented and the changeable copy and we don't know the RSAs, we could send it out for review, for an
564 opinion.
565
566 [OVERLAPPING COMMENTS]
567
568 NEIL DUNN: Well, more specifically with this argument...um...but because looking at our definition of
569 changeable copy, that is what they were changing before the just the numbers for the pricing. So if we need
570 to tighten up our spec or whatever, again it's my perspective, there are five of us voting so I am not
571 trying...no I understand where you are going....
572
573 JACKIE BENARD: I mean we have already argued with the, wrestled with this same argument in a previous
574 case.
575
576 JIM SMITH: Yeah but I think one of the problems we had with our previous case...one for review...it went by
577 the historical commission initially. The issue was brought up. Someone made a statement as to what they
578 thought it was and nobody on the commission raised any objection to it on that initial hearing and it kind of
579 lend them down the Gardner's path as to what they can do. So I think they had more of an argument of
580 the...or for a better word misled into thinking that that type of a sign was acceptable. So I do not think it's
581 quite the same situation as we have at the present moment.
582
583 MARK GROSS: Mr. Chairman, point of order, if I may?

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JIM SMITH: Not really.

MARK GROSS: Ok, I tried. The only treason I asked is because something was said. I think there is a misunderstanding about when this applies and when it doesn't. I think it is pertinent to your deliberations.

JIM SMITH: Well, I reluctantly let you state it.

MARK GROSS: Thank you. Um, there was a comment made if we allow this then we will allow every other person to come in and I just want to clarify that this only applies to existing signs that were legally existing at the time they were erected. It does not apply to brand new signs that come in...um...it only applies to existing, pre-existing, non-conforming signage so you are not going to see a new owner come in and ask for this LED sign based on this state law because it does not apply. I just want to make sure that the board understands this.

JIM SMITH: I understand what you are saying but I think the signs we are thinking about all meet the legally pre-existing situations and that is where we are wrestling.

SUZANNE BRUNELE: Without giving credence to that argument or not. Most signs should be legal or turnovers...exactly what you said.

JIM SMITH: Well, you see, a lot of the signs were legally put up in the first place either through a variance or they were in conformance with the regulations at that time; however, we changed our ordinance and addressed things and I know if you went back 10 years ago you probably would not have heard anything about any type of electronic signs in the ordinance. Now we have a definition of it. Maybe it is... [INAUDIBLE]...whatever. So I think one of the big problems with any zoning ordinance it gets amended so many times. I am trying to remember what was legal at the point a particular thing happened versus what it current status is. That is why we end up with a lot of signs and other things which are, meet the pre-existing condition situation but I think what we are wrestling with is if you look at...what do we got...one, two, three...three gas stations left.

NEIL DUNN: BP, Speedway...

JIM SMITH: No, Speedway...coming this way. The one that is next to the left is being changed into a tire place. So that one is gone. Then you got the one that we did give the sign ordinance to...

[OVERLAPPING COMMNETS]

BILL BERARDINO: But they had pre-existing signs. They used the same...close to twenty feet...

[OVERLAPPING COMMENTS]

JIM SMITH: So you got five and then one in the [INAUDIBLE] of Shell and then you got...potentially we got a total of seven signs which could be possibly use this argument.

629 NEIL DUNN: So getting back to point one, Suzanne. So, what was your take on it, if I may?

630

631 SUZANNE BRUNELLE: I am not convinced by the RSA argument but putting that aside...not contrary to the
632 public interest...it is difficult. The new sign is better than the old sign, no doubt. I just, you know, you get led
633 down the slippery slope argument and I do not want to necessarily keep harping on that but um we are a
634 Town and we are a Town that is concerned with what we look like and um we are not Manchester. So there
635 is progress that will come and go and maybe we are not going to pick up on it and maybe we should or
636 maybe we shouldn't. I guess that is a decision for all of us to make. In the regard, I do not know allowing
637 electronic signs isn't keeping with the standards of the town of Londonderry.

638

639 JACKIE BENARD: You know, the new sign is cleaner. It is smaller um, it is more eye appealing. It does have
640 it...it is cleaned up. It is not as billboardish looking. It is more uniformed. Um... It is smaller an area so it...I
641 look at that clean up and try to focus in on exactly with the electronic changing of the pricing of fuel which is
642 what our main concern is here but as far as contrary to the public interest, the new sign, to me , is more
643 pleasing, cleaner. It cleans up some messy older looking sign. Yeah, the overall sign is reduced.

644

645 BILL BERARDINO: Sharper, cleaner, less offensive.

646

647 JACKIE BENARD: It is...

648

649 JIM SMITH: Dunkin Donuts is shrunken considerably.

650

651 JACKIE BENARD: Um uh...

652

653 JIM SMITH: Those are the plus things but we are still back...

654

655 NEIL DUNN: To the argument on the RSA...

656

657 JIM SMITH: Well, one issue that wasn't brought up tonight was the safety aspect of having someone actually
658 go out there and manually change those numbers in adverse weather conditions and so forth. It is obvious a
659 safer way for somebody to change those numbers. Looking at the sign we did approve I don't think...doesn't
660 look...looks ok to me...

661

662 JACKIE BERNARD: And if the issue with the illumination from old concept, from old existing to new concept, if
663 the lighting is under control so that it is not this really bright sign and they agree to flipping with only that
664 dark background with only that white showing for food mart so that it can be read and the white car wash to
665 be read and ATM. To me that won't be as bright either

666

667 NEIL DUNN: Well, I guess it kind of boils down to me. Based on what their argument was on number one
668 alone other than the 674 part because I questioned that all along...um...to me it does not seem substantially
669 different it is just the numbers and we are not letting them get brighter.

670

671 JACKIE BENARD: Correct.

672

673 NEIL DUNN: I guess if we go to number two then we get back to 674 maybe. One thing is, we don't have.
674 Does anyone have a paper copy? Is his quote of sign changeable copy and not to doubt him, I know we
675 recently changed it. Does it give that...
676
677 JACKIE BENARD: Yes, it does...
678
679 NEIL DUNN: Letters and illustrations and everything still...
680
681 JACKIE BENARD: No, he didn't quote the sign or electronic message board where it depicts that
682 information...
683
684 NEIL DUNN: Right but on sign changeable copy it is....
685
686 JACKIE BENARD: Verbatim. I already checked it.
687
688 NEIL DUNN: So that it is kind of blurry there if an illustration can be a changeable copy.
689
690 JACKIE BENARD: Correct.
691
692 NEIL DUNN: So then it is only if it is done with electronics than it becomes a message board and offensive.
693
694 JACKIE BENARD: Correct.
695
696 NEIL DUNN: Ok, thank you.
697
698 JACKIE BENARD: That is why I looked it up.
699
700 NEIL DUNN: And then if it was electronic...I guess that is where we draw the line. If it is a different use or not
701 and that was my whole point with the technology being always changing.
702
703 JIM SMITH: See, part of the problem is the definition he is quoting is about changeable copy and in it, it
704 mentions electronic. When you look at the definition for
705
706 [OVERLAPPING COMMNETS]
707
708 JACKIE BENARD: Electronic message boards...
709
710 JIM SMITH: That is what is addressed in the ordinance.
711
712 JACKIE BENARD: Correct.
713
714 JIM SMITH: They don't address electronic changeable copies in the ordinance. Is that correct? Richard?
715
716 RICHARD CANUEL: I am sorry. I wasn't following you.
717

718 JIM SMITH: Ok, the electronic message boards is quoted or stated as that it is prohibited in the ordinance.
719
720 RICHARD CANUEL: That is correct.
721
722 JIM SMITH: The ordinance doesn't really address electronic changeable copies in the ordinance.
723
724 JACKIE BENARD: It does...
725
726 RICHARD CANUEL: It does in the definition...
727
728 JIM SMITH: In the definition.
729
730 [OVERLAPPING COMMENTS]
731
732 RICHARD CANUEL: In the body of the ordinance it talks about flashing, moving changeable electronic copies
733 or electronic message boards is what it says.
734
735 JIM SMITH: Yeah, so we have a definition which really isn't used in the ordinance. Well, in total.
736
737 JACKIE BENARD: Um...3.11.7
738
739 NEIL DUNN: Well, except we say 75% of the effacement may be changeable signage and then so it kind of
740 backs into it with a bad description of sign changeable copy being a portion there...design to accommodate
741 message changes proposed of characters, letters or illustrations manually or electronically so there is kind of
742 that blurry line and that is why I was trying to get clarity.
743
744 BILL BERARDINO: [OVERLAPPING COMMENTS]...characters and letters there is a number, a character or a
745 letter, numeral, number.
746
747 NEIL DUNN: Right but it gets to the argument being changeable copy after 75% is allowed, that really is all
748 they are looking to change...
749
750 JACKIE BENARD: Right...
751
752 NEIL DUNN: using the RSA 674 whether that is applicable or not...
753
754 JACKIE BENARD: Right, because our zoning ordinance in section E (3) is where it addresses the
755 illumination of signs which is animated moving, flashing and noise making signs are prohibited.
756 Changeable electronic message board signs are prohibited in all zoning district. When you look
757 up sign, electronic message board, a sign with a fixed or changing display message composed of
758 a series of lights that may be changed through electronic means, signs whose alphabetic or
759 pictographic or symbolic informational content can be changed or altered upon a fixed
760 displayed screen composed of electronically illuminated segments. So that is how it has been
761 referred to. So whether the RSA is actually applicable, I guess becomes the hinge pin here.
762

763 JIM SMITH: And the definition that is in here, if it had the word [INAUDIBLE] electronically stricken from it
764 you wouldn't be in any conflict, but it is still there

765
766 JACKIE BENARD: Um uh

767
768 JIM SMITH: Ok, so, number one we agreed that they met, number two where are we?

769
770 NEIL DUNN: Based on the argument, I think they do. I think the only open question is 674. I think it was
771 presented well... [INAUDIBLE] and we limit it to that no brighter and...the numbers which they were changing
772 by decals or signs or whatever you want to call those cards. It was presented well that way. If it has those
773 restrictions; however, does 674 really make it, do we really want to ban LED pricing?

774
775 JACKIE BENARD: Right, well, if we go back to the purpose and the intent of this ordinance. I mean, would you
776 like me to read that to refresh everybody.

777
778 NEIL DUNN: Sure. If Jim doesn't mind, Mr. Chairman... [LAUGHTER]

779
780 JACKIE BENARD: So the spirit of the ordinance, the purpose and the intent (A) protect the health, safety and
781 welfare of the public; (B) maintain and enhance the appearance and aesthetic environment of Londonderry;
782 (C) maintain and promote the rural, agricultural and historical character of Londonderry; (D) control visual
783 clutter and encourage high professional standards in sign design and display; (E) promote signs that are
784 harmonious in color, material and lighting with the buildings and surroundings to which they relate; (F) retain
785 the Town's ability to attract and encourage economic development and growth; and (G) promote the
786 economic growth of Londonderry by creating a community image that is conducive to attracting new
787 businesses and industrial development. I mean we talked about a lot of that already and so the spirit of the
788 ordinance is being observed on several of those points. Um, we talked about the enhanced appearance, the
789 aesthetics of the new sign, um, control visual clutter, we talked about that. Um, higher professional
790 standards from the old sign to the new. We talked about the harmonious color and materials, how it was
791 more appealing in the new sign. We did talk about the lighting, though. So that point was actually hit and
792 how it relates to the surroundings of Londonderry. Um, retain the Town's ability to attract and encourage
793 economic development and growth. So I mean we sort of hit all of those.

794
795 NEIL DUNN: I guess it boils down to do we want LED signs or not. Right? And where does 674 come in?

796
797 JACKIE BENARD: Right...

798
799 NEIL DUNN: To me the way it was presented based on what we have and with those restrictions that it not
800 be that bright translucent light that it has the dark with the numbers...[LAUGHTER]...how do we even put the
801 limitation in then it would hit that as far as number two goes

802
803 NEIL DUNN: Without regard to 674. If 674 was overruled then I would say what are the options? Do the little
804 card numbers look any better? I do not know. I guess we could put it in front of the Town.

805
806 JACKIE BENARD: So, I guess that hinge pin on this one whether 674 is applicable to...

807

808 NEIL DUNN: Overrides it...

809

810 JACKIE BENARD: ...and if it overrides it.

811

812 NEIL DUNN: Or if everybody here...

813

814 JIM SMITH: Well, when you read the section the section that talks about the zoning...

815

816 JACKIE BENARD: Um, for color and material that...

817

818 JIM SMITH: Yeah, read that one.

819

820 JACKIE BENARD: Promotes sign that are harmonious in color, material and lighting with the buildings and

821 surroundings to which they relate...

822

823 JIM SMITH: Ok, wasn't there something in there about the zoning or professional?

824

825 JACKIE BENARD: Yep, control visual clutter and encourage high professional standards in sign design and

826 display.

827

828 JIM SMITH: Sign design and display.

829

830 JACKIE BENARD: So the spirit of the ordinance is...

831

832 [OVERLAPPING COMMENTS]

833

834 NEIL DUNN: Is there time limits? I guess they are open 24 hours so it doesn't matter anyway.

835

836 JACKIE BENARD: For purpose and intent?

837

838 NEIL DUNN: No, just in general.

839

840 JACKIE BENARD: Just in general.

841

842 NEIL DUNN: But they're open but if they're open they should have signage... [OVERLAPPING COMMENTS]

843

844 JIM TIRABASSI: So we asking them to present a clean viable product but hinging it, the technology that goes

845 with the clean, viable product.

846

847 JIM SMITH: Right.

848

849 JIM TIRABASSI: Which it becomes our responsibility to figure out how to limit how much that can expand.

850

851 JACKIE BENARD: But is this new technology achieving that clean...

852

853 JIM TIRABASSI: Aesthetically, it is because if you look at the old numbers. In two levels it is.
854
855 JACKIE BENARD: Right.
856
857 JIM TIRABASSI: The simple fact that the pricing is on the [INAUDIBLE] and somebody does not go out and
858 change it. Somebody is going to pull in there and say he geez I found gas for \$2.49, \$1.49 a gallon and they
859 go in there and it is \$1.78 and they ae going to be really annoyed that it wasn't changed. With the electronic
860 transmission of pricing it seems to be more accurate so you are going to get, you're going to know that, so on
861 several levels it covers. Also, it looks better. It doesn't crack. It doesn't peel. You do wind up having to
862 make a 6 into a 9. Numbers blowing away. Is that a \$1.49, \$1.39, a \$1.29? You get all the information. My
863 belief is it becomes dependent upon the municipalities to determine or hold back the technology from
864 expanding.
865
866 JACKIE BERNARD: So that is why basically it is number two that we are trying to answer which is the spirit of
867 the ordinance. So has it been met?
868
869 SUZANNE BRUNELLE: Based upon what you read, I believe it has.
870
871 JACKIE BERNARD: Correct.
872
873 JIM SMITH: Okay.
874
875 JACKIE BENARD: Do we all agree on that?
876
877 NEIL DUNN: Yes with a restriction.
878
879 [OVERLAPPING COMMENTS]
880
881 JIM SMITH: Yeah, you can make the motion and put the restrictions in it. Ok...number three. Substantial
882 justice is done because...
883
884 NEIL DUNN: They use 674 so much, it becomes the argument you have to start saying well, I have to quantify
885 it or qualify it. I am good with number three.
886
887 JIM SMITH: Anyone have any more observations? Ok, number four. I do not think it will change the
888 property values.
889
890 JACKIE BENARD: I agree with you.
891
892 JIM SMITH: If anything it's a better looking sign.
893
894 JACKIE BENARD: Do we all agree that property values will not be diminished?
895
896 NEIL DUNN: I do
897

898 SUZANNE BRUNELLE: Yes.
899
900 JACKIE BENARD: Ok.
901
902 JIM SMITH: Literal enforcement of the provision of the ordinance will result in unnecessary hardship
903 because...and he goes through all of his various points...
904
905 NEIL DUNN: I do not like to that...
906
907 SUZANNE BRUNELLE: Natural evolution is not a hardship.
908
909 JIM SMITH: I don't think they really are. I think it's...
910
911 SUZANNE BRUNELLE: What is unique to that property that it should have that type of signage that other
912 properties don't? Mobile across the street. What is the difference between Mobile and Shell?
913
914 JACKIE BENARD: Their logo.
915
916 SUZANNE BRUNELLE: It is my understanding that that is what that fifth element is. That that property is
917 unique; therefore, it needs this requested relief so I am not quite sure...
918
919 JACKIE BENARD: No, this property has nothing unique.
920
921 JIM TIRABASSI: There is nothing unique about the property at all so...
922
923 JACKIE BENARD: So there is no hardship there for that. At least I don't see any.
924
925 NEIL DUNN: So now this one, item five, does now get down to 674 being the only argument.
926
927 NEIL DUNN: Well, what would the special conditions be that they are the only one with a conforming existing
928 sign, how is...well, are all the other ones nonconforming.
929
930 SUZANNE BRUNELLE: I am not prepared to make that argument...
931
932 JACKIE BERNARD: I think it is slippery slope.
933
934 NEIL DUNN: So the only thing I can, so there's no, I mean this is, point five in a variance is kind of hard to
935 prove replacing copy on a sign. Well, I guess because his argument is based on 674 then maybe we should go
936 back out for a ruling against the variance.
937
938 JACKIE BENARD: Clearly because 674 is being challenge...
939
940 NEIL DUNN: As a variance, not and an administrative decision...
941

942 JACKIE BENARD: Yes, that is a great possibility. If that, yeah, because that is the challenge in this argument.
943 Really...

944
945 NEIL DUNN: Well, because there is no...how do you make an argument for a variance under five which is a
946 hardship thing when the only argument they really have is 674 with the condition, you know, it is not...the
947 property is not really unique for that area. There is nothing there that's....

948
949 JACKIE BENARD: 674 basically says that it is not different and that they should not have to apply.

950
951 [OVERLAPPING COMMNETS]

952
953 NEIL DUNN: That is what we are getting, that is what I have trouble often when we get into a case where
954 number five is there is no special conditions of the property. So number five would never really qualify and
955 so then you have to use our argument for the points for number five which are all based on 674 so..

956
957 JACKIE BENARD: Right...

958
959 NEIL DUNN: Or we as a Board can just say well that doesn't really apply because it is not really an issue here
960 but, I do not know....

961
962 JACKE BENARD: So, in his argument he states therefore there is no fair or substantial relationship between
963 the proposed pricing aspect of this sign and its definition by the building inspector as an electronic reader
964 board messaging sign to the general public purposes outlined in the sign ordinance because the method by
965 which the pricing aspect of this sign is achieved does not render the use of the sign substantially different and
966 still provides the legal rules for when a nonconforming use can be changed or expanded under RSA 674:19.
967 So basically he is challenging our zoning ordinance saying that 674 null and voids it because it is a conforming
968 sign and it is nonconforming but it is not being changed in any manner other than that one instance that
969 throws everything out. So, you know, Jim, you got a point, maybe we need a ruling on 674 as to and how we
970 rule and proceed with the other points of law because if this.

971
972 JIM SMITH: Ok, based upon that I'd ask for a motion to do what the Board wants to, which is...

973
974 JACKIE BENARD: Seek counsel, right?

975
976 SUZANNE BRUNELLE: Agreed.

977
978 JIM SMITH: Somebody want to make a motion to that effect?

979
980 JACKIE BENARD: Alright, Mr. Chairman, I would like to make a motion...do we...and is this why we are doing
981 the motion?

982
983 NEIL DUNN: We would like them to review the whole darn thing...

984
985 JACKIE BERNARD: To review, correct?

987 NEIL DUNN: As presented by the applicant...
988
989 JACKIE BERNARD: Alright, um...I would like to make a motion to continue this case?
990
991 JIM SMITH: Yes.
992
993 JACKIE BERNARD: ...so that we could seek legal counsel to review the case as presented, case 1/20/16-2 as
994 presented by the applicant for further clarification on the points of law which he raises and his reference to
995 [Overlapping Comments] RSA 674:19?
996
997 NEIL DUNN: Seconded
998
999 JIM SMITH: All in favor?
000
001 ALL: Aye.
002
003 JIM SMITH: So we are continuing to the next, when is our next meeting?
004
005 NEIL DUNN: February 4th? No, I am sorry, nope...
006
007 JIM SMITH: It can't be...
008
009 JIM TIRABASSI: February 19, hold on...
010
011 JIM SMITH: Looking for the date of the meeting, Wednesday?
012
013 [Overlapping Comments]
014
015 BILL BERARDINO: 17th, yeah.
016
017 JIM SMITH: Ok, so we are continuing this to February 17th. There won't be any further public notices other
018 than this.
019
020 MARK GROSS: What date? I'm sorry.
021
022 JIM SMITH: February 17th.
023
024 MARK GROSS: Thank you.
025
026 [OVERLAPPING COMMENTS]
027
028 JIM SMITH: Ok, we got one other order of business before we can leave.
029
030 NEIL DUNN: Officers?
031

032 JIM SMITH: Right.
033
034 [OVERLAPPING COMMNETS]
035
036 NEIL DUNN: I WOULD LIKE TO NOMINATE Jim Smith as Chairman?
037
038 JACKIE BERNARD: I will second that.
039
040 JIM SMITH: All those in favor?
041
042 ALL (except Jim Smith): Aye
043
044 JIM SMITH: Ok.
045
046 [OVERLAPPING COMMNETS]
047
048 JIM SMITH: I would like to nominate Neil as Vice-Chairman and Jim, since you are doing such a wonderful
049 job, as clerk?
050
051 JIM TIRABASSI: Pretty much by default you're starting me.
052
053 JIM SMITH: Is everybody satisfied with that?
054
055 SUZANNE BRUNELLE: Yes, I will second that.
056
057 JIM SMITH: Ok so we got a new set of officers. Ok, you are the only new one.
058
059 NEIL DUNN: Mr. Chairman, I would like to make a motion to adjourn?
060
061 JACKIE BENARD: I will second that.
062
063 JIM SMITH: All those in favor?
064
065 ALL: Aye.
066
067 JIM SMITH: We are adjourned.
068
069
070 **RESULTS:**
071
072 **THE MOTION TO CONTINUE CASE NO. 1/20/2016-2 TO FEBRUARY 17, 2016 TO SEEK LEGAL COUNSEL TO**
073 **REVIEW THE CASE AS PRESENTED BY THE APPLICANT FOR FURTHER CLARIFICATION ON THE POINTS OF**
074 **LAW WHICH HE RAISED ANS HIS REFERENCETO RSA 674:19 WAS APPROVED, 5-0-0.**
075
076 RESPECTFULLY SUBMITTED,

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Jim Tirabassi

JIM TIRABASSI, CLERK

TYPED AND TRANSCRIBED BY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT SECRETARY.

APPROVED (FEBRUARY 17, 2016) WITH A MOTION MADE BY N. DUNN, SECONDED BY J. BENARD AND APPROVED 5-0-0.