

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

DATE: FEBRUARY 17, 2016

CASE NO.: 2/17/2016-1

APPLICANT: LEEMAN CORPORATION

LOCATION: 44 NASHUA ROAD, 7-67, C-1

BOARD MEMBERS PRESENT: JIM SMITH, CHAIRMAN  
JACQUELINE BENARD, VOTING MEMBER  
JIM TIRABASSI, CLERK  
NEIL DUNN, VOTING MEMBER  
DAVID PAQUETTE, VOTING MEMBER  
SUZANNE BRUNELLE, ALTERNATE NONVOTING MEMBER  
BILL BERARDINO, ALTERNATE NONVOTING MEMBER

ALSO PRESENT: RICHARD CANUEL, SENIOR BUILDING INSPECTOR/ZONING  
ADMINISTRATOR/HEALTH OFFICER

REQUEST: **A VARIANCE TO LZO, SECTION 3.11.6.D.3.b TO ALLOW  
TWO SIGNS WHERE ONLY ONE IS PERMITTED - 44  
NASHUA ROAD, MAP 7 PARCEL 67, ZONE C-1**

PRESENTATION: J. TIRABASSI READ REQUEST INTO RECORD. NO  
PREVIOUS CASES. APPLICANT PRESENTED PACKET OF  
PICTURES (THREE PAGES TOTAL)

JIM SMITH: Ok, for the remaining part of the evening, Dave will be the voting member. Suzanne will be a nonvoting alternate. Bill is a nonvoting alternate because we have all five of us. So at this point we will read the next case in.

JIM SMITH: Ok, who will be presenting?

JEFF TUTTLE: I have some extra copies here. Do you want me to hand them out to everyone?

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JIM SMITH: Sure, you might as well.

JEFF TUTTLE: My name is Jeff Tuttle and I am representing the Sign Gallery in Hooksett, New Hampshire.

EDDIE LEON: Eddie Leon from LaCarreta Restaurant.

JIM SMITH: You have the floor.

JEFF TUTTLE: Ok, I gave you some extra drawings. You can see, actually photographs of some of the tenants that are in this plaza that the LaCarreta restaurant is going to be going into. They are taking the place of the old Whippersnappers location. You are allowed 40 square feet on each one, for each of these tenants. As you can see for most of, some of the dimensions, one of my assistants wrote in because it came up somewhat small but pretty much all three signs that are there are 40 square feet maximum. Some of them are a little bit smaller but as you can see, per each tenant which is about, the tenant's space is about 20 feet long and then you are going to see on one of the drawings we have where the LaCaretta is going. He basically has three, he is basically taking up three tenant spaces instead of just one tenant space and the original drawings we have were showing 70 square feet of sign instead of the 40 square feet and we just want to put the signage in the left part of the...he is going to have basically one full span plus a half span. We just wanted to put the signs on the left full span, nothing on the right span at all because the really is no entrance at all. That entrance is going to be blocked off. You have two front doors that are going to be on that left section on those drawings that I just handed out to you. You can see on the left that full span section is two doors there. That is going to be the main entrance. The other half section, you can actually see a set of doors there. He is going to blocking that off. That is an entrance but it is going to be like an emergency exit. No entrance. So that is pretty much what we are looking to do. We are looking to get. Not, normally if there are three tenants there you are looking at three 40 square foot signs there or basically 120 square feet. We are just trying to get, not even two full signs there at 40 square feet, just one 40 foot and then an additional 30 square foot sign. So really the only additional we are trying to add is the restaurant mexicano. Just so people can understand that it is just not LaCarretas. We think that if we try doing a drawing showing the LaCarreta with the logo and restaurant mexicano, it got so small trying to squeeze that all into a 40 square foot area. It just looked lost on that whole wall and then you are going to have. We tried to put that in the corner. There is just no way to center it on the whole area so you can't tell that he has all those spaces and it just looks vacant. So we are trying to fill up some of that space on that one span just so people can see that he is in that area. He is in those three spots, not just one spot. It would just help people find him better because it would also, that spot that is in there is all the way down the corner where the Whippersnappers used to be so it is really far down there. If you are driving, it is hard to see that sign down the corner.

JIM SMITH: So what is the total square footage of the sign?

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JEFF TUTTLE: It would be 70 square feet total. We are not doing anything special with the sign. It is pretty much just like what everyone else has out there. Nothing exposed. No neon exposed. No LED exposed.

JIM TIRABASSI: A total of 2 ½ units?

JEFF TUTTLE: A total of 2 ½ units exactly. It is actually three.

EDDIE LEON: It is 7600 square feet.

JEFF TUTTLE: That is right. So, it is actually three units. Sorry.

JIM SMITH: Ok, you want to address the five points?

JEFF TUTTLE: Sure. The first point, the variance will not be contrary to the public interest. If granted permission, it would not be contrary to the public interest because of a couple of things I already mentioned. It is going to be easier for people, for the public to find LaCarreta Restaurant when they come in and anywhere else, inside that plaza you are not going to see...you are not going to make, it is not going to make any difference than having three forty square foot signs there. It is actually going to look better. They are going to have two signs and they are not even going for a total of 80 square feet. So, it will not be contrary to the public interest in that manner. The spirit of the ordinance is observed because of the frontage that LaCarreta will be occupying and the space it will be occupying taking up three spaces and occupying three full tenant spaces across the front, the need for a larger sign is needed and requested. Substantial justice is done. This is the section that they said when we were at the town filling out the application that we did not need fill, we did not need to write anything there but I am going to say something any way. Substantial justice is done because my tenant will be...it will be fair for my tenant because everyone else has basically a 40 square foot sign per spot and he is going to have three spots and if he is only allowed one 40 square foot sign then that is actually not fair to him. I do not think it will be doing him justice by only being allowed 40 square foot. I mean he could actually be going for 120 square feet which we thought would be too crazy so we did not go for that. The value of surrounding properties is not diminished. With permission of a larger sign, none of the properties are diminished or affected because basically it is in a plaza. You are not facing a residential area. I mean it is not going to be a huge blinding sign adding more square footage making it difficult for people to see. I just don't think it is going to be...I just don't think it is going to diminish the value at, especially at that property. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. For the purpose of this subparagraph, unnecessary hardship means. That owing to special conditions of the property that distinguish it from other properties in the area, no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property. If the proposed work is granted based on the large frontage LaCarreta is occupying,

the ordinance will not be compromised. The proposed use is a reasonable one. Since LaCarreta will be occupying three units, three tenant units in the plaza, a larger sign is needed to establish LaCarreta in that business area.

JIM SMITH: Ok. Questions from the Board?

NEIL DUNN: I just wanted to follow up on number three. Someone told you you didn't need to complete that?

JEFF TUTTLE: Yeah, someone in the office, told....I did not write it out. One of my assistants wrote it out and they said you did not have to fill it out. It did not really apply to us. I do not know why but that is what they told him.

NEIL DUNN: If I may, Mr. Chairman?

JIM SMITH: Sure.

NEIL DUNN: Richard, we do not have any provisions for a case like this where they take over three units? I mean they would be literally stuck with one little 40 square foot sign.

RICHARD CANUEL: Well, essentially with the way the language in our ordinance reads, it says one wall sign per tenant. So essentially LaCarreta is one tenant even though they are occupying more than one tenant space in that building, so.

NEIL DUNN: If they would decide to give half that back. It used to be the dance area or the band area whatever that was before and another tenant went in there. I am not saying that would happen. I am just playing devil's advocate. Somewhere else could add a sign...

[OVERLAPPING COMMENTS]

RICHARD CANUEL: Exactly. So, if we look at that as three separate tenant spaces you could have three 40 square foot wall signs right here at that space.

BILL BERARDINO: Is the sign going to be lit 24/7 or just during operations?

[OVERLAPPING COMMENTS]

EDDIE LEON: On a timer. We do not want to pay electricity bills if we do not have to.

BILL BERARDINO: So during the hours of operation, basically?

EDDIE LEON: Yes. We will open 11-10 on weekdays and Friday and Saturday we close at 11.

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NEIL DUNN: I am thinking about a sunset. Will the variance go with, in this case is it going with the property or the business, Richard?

RICHARD CANUEL: It is going to the property. The variance is actually granted to the property, essentially.

NEIL DUNN: I guess my question to the applicants would be, can we sunset that with the business? Only because someone would be allowed...I think it is going to get messy trying to figure out this if for some reason they relocated to a bigger location because they are a great restaurant. Does somebody in the building have a 70 foot sign and then the next two get smaller ones? So I am trying to figure out how we can restrict that or sunset that under change of ownership of the business with the signage.

JACQUELINE BENARD: Could we put verbiage while tenant LaCarreta resides at these three units?

RICHARD CANUEL: You could do that. Sure, of course. That is because the application is for LaCarreta specifically.

NEIL DUNN: Would you be fine with that limitation?

EDDIE LEON: Yep.

JIM SMITH: Another approach would be to tie it...to those three units as one unit.

NEIL DUNN: If they move out, are we going to tell the landlord...

JIM SMITH: What I am saying. If someone else moved into that same total space....

[OVERLAPPING COMMENTS]

JIM SMITH: So they moved to a totally different location and some other restaurant came in and took all three rather than force them to come back here, we could tie it to that remaining as a three unit piece verses you know, it is just another approach.

BILL BERADINO: In other words, as long as someone takes over those three units, I understand.

NEIL DUNN: I personally think I would be more...I feel like there is more control if LaCarreta left...

JIM SMITH: I just wanted to suggest that...

JACQUELINE BENARD: Keeping it with the applicant.

NEIL DUNN: If someone is taking all three spaces, they are going to be here with the just the same argument.

JACQUELINE BENARD: And they may say because the others have x signs so x times three we are allowed

JIM SMITH: Any other comments. Suzanne, you can still make comments if you want.

SUZANNE BRUNELLE: Looks good.

JIM SMITH: Bill? Ok, I always thought it was kind of arbitrary to limit the 40 square feet to a tenant versus the unit because we had other situations in other buildings where we have had similar arguments. I am sure that Richard has run into it before. Ok, having said that....

JACQUELINE BENARD: Do we want to go on record with the five points?

JIM SMITH: Yes. I think we should. Ok, let's go through the five points. The variance will not be contrary to the public interest because...

NEIL DUNN: I do not think there is an impact to the public interest, there's no residential area.

JIM SMITH: Number two, the spirit of the ordinance is observed.

NEIL DUNN: There is less square footage of signage as opposed to three individual tenants.

JACQUELINE BENARD: Correct.

JIM SMITH: Ok, next one, substantial justice is done. It is a reasonable size sign.... The value of surrounding properties is not diminished. Does it really have any impact?

JACQUELINE BENARD: No, it definitely does not diminish it. It keeps the property values up by keeping it full.

JIM SMITH: Literal enforcement, unnecessary hardship. It allows a sign more appropriate to the number of units it has. Ok. I will entertain a motion.

DAVE PAQUETTE: Mr. Chairman, I would like to raise a motion. I am sorry, in regards to Case no. 2/17/2016-1. I would like to raise a motion to grant the variance for the larger sign with the restriction that the variance be bound to the LaCarreta business and will sunset at their departure from the property?

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JIM SMITH: Do I have a...

JACQUELINE BENARD: I second it.

JIM SMITH: Jackie seconds.

JIM SMITH: All those in favor?

ALL VOTING MEMBERS: Aye.

JIM SMITH: Anyone opposed?

JEFF TUTTLE: Thank you.

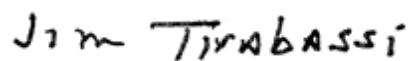
EDDIE LEON: Thank you very much.

JACQUELINE BENARD: Have a good evening.

EDDIE LEON: You, too.

JIM SMITH: Does anyone object to a ten minute break? Ok, we are going to take a ten minute break.

RESPECTFULLY SUBMITTED,

A handwritten signature in black ink that reads "Jim Tirabassi". The signature is written in a cursive, slightly slanted style.

JIM TIRABASSI, ACTING CLERK

TYPED AND TRANSCRIBED BY, PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT SECRETARY.

**APPROVED** ON APRIL 20, 2016 WITH A MOTION MADE BY N. DUNN, SECONDED BY J. BENARD, AND APPROVED 5-0-0.