

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

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5 DATE: APRIL 15, 2015
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7 CASE NO.: 4/15/2015-3
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9 APPLICANT: BRIDGWOOD HOLDINGS, LLC
10 1 HARDY RD, PMB 225
11 BEDFORD, NH 03110
12
13 LOCATION: 22 MCALLISTER DRIVE, 7-126, C-III
14
15 BOARD MEMBERS PRESENT: JIM SMITH, CHAIRMAN
16 JACKIE BENARD, VOTING MEMBER
17 JIM TIRABASSI, VOTING MEMBER
18 ANNETTE STOLLER, VOTING ALTERNATE
19 BILL BERNADINO, NON-VOTING ALTERNATE
20 NEIL DUNN, ACTING CLERK
21
22 ALSO PRESENT: RICHARD CANUEL, SENIOR BUILDING INSPECTOR/ZONING
23 ADMINISTRATOR/HEALTH OFFICER
24
25 REQUEST: A VARIANCE TO ALLOW THE REPLACEMENT OF AN EXISTING NON-
26 CONFORMING SIGN LOCATED WITHIN THE REQUIRED 15-FOOT SETBACK
27 AS RESTRICTED BY SECTION 3.11.8.B [Formerly Section 3.11.8.2].
28
29 PRESENTATION: Case No. 4/15/2015-3 was read into the record with three previous cases
30 listed.
31
32 JIM SMITH: Who will be presenting?
33
34 STEPHEN BEALS: I will. Stephen Beals. I own Bridgwood Holdings as well as Beals Insurance agency who is
35 renting the building now from Bridgwood Holdings.
36
37 JIM SMITH: So you're converting this building to an office?
38
39 STEPHEN BEALS: Yes sir.
40
41 JIM SMITH: Okay.
42
43 STEPHEN BEALS: Well, it was an office. It's been an office all along.
44
45 JIM SMITH: Okay. Want to give us a little back ground then go through the five points?

46

47 STEPHEN BEALS: Sure. Good evening to the Board and Mr. Chairman. My name again as I said before is
48 Stephen Beals. I started my insurance business in Bedford about thirteen (13) years ago. Started to grow
49 quite a bit down in the greater...Londonderry specifically in some of the surrounding towns, and we've grown
50 to the point now where I actually rented a space in Hudson and was looking the whole time to move to
51 Londonderry. Because that is where I wanted to position the business because I had so much already existing
52 there that I was servicing from Bedford. I purchased the property in the middle of September, and met with
53 the code official, Mr. Canuel. He and I walked through the property at length inside and out. Prior to my
54 purchasing it, it was used I believe as some form of mental health services business downstairs and there was
55 a three (3) bedroom residential apartment upstairs. It was in pretty rough shape so I got the proper permits
56 from the Town to renovate the upstairs residential unit and reduce that from three (3) bedrooms to two (2)
57 because one of my employees was selling her house and was getting up in years and we saw that as a great
58 opportunity for her to live there, but I really didn't a three (3) bedroom unit because it brings in other issues
59 that I wanted to avoid with also having an office space downstairs. Downstairs I renovated, I believe four (4)
60 offices, or five (5) offices. I turned that into a reception area with one large office so the use has actually been
61 reduce over what was originally there. There is an existing sign that has been there since I believe 1974, or 73
62 somewhere in that range. I walked the site with Mr. Canuel, and looked at various options of either repairing
63 it, or replacing it. Down at the base of the sign there is quite a bit of rot, and I had Classic Sign who does all my
64 sign work look at it and there is really no saving it. The base of it is almost to the point right now that you
65 could push it over if you wanted to. It's a wooden frame base, so I had them design...if I may Mr. Chairman, I
66 have some pictures for everybody at the Board (Exhibit "A"). If I may approach and give those to you?

67

68 JIM SMITH: Okay, before we go any further. Annette, you'll be voting on this one versus Bill.

69

70 ANNETTE STOLLER: [Indistinct].

71

72 JIM SMITH: No, I mean for this particular case you'll be the voting alternate versus Bill.

73

74 ANNETTE STOLLER: Okay.

75

76 JIM SMITH: Bill was the voting alternate on the last case. I'm must swapping back and forth.

77

78 JACKIE BENARD: Thank you.

79

80 [Overlapping]

81

82 STEPHEN BEALS: Currently, the current sign that exists there right now is not in the right of way, but it was
83 obviously...that road over time as I researched has extended the right of way from quite a ways away from
84 that to the point where it's probably about a foot inside the right of way. I mean it's a foot outside from the
85 right of way from the road. So none of the sign actually is in the area of the right of way, but when I put in my
86 sign application, I received notification from I believe it was Ms. Trottier? That anytime you're going to change
87 copy, or something like that you have to go...my throat is really dry, so I apologize. You have to go before the
88 Board. As much as I didn't like to hear that...obviously have to follow and comply with that. I spoke with her
89 and tried to make sure that I hit the points the best I could this will probably be the most unsophisticated

90 presentation you've had probably so far in 2015, and it may win the whole year. I don't know? Help me along
91 the way if I get out of track.

92
93 JIM SMITH: You're not unique.

94
95 STEPHEN BEALS: Hmm? I'm not unique, okay. I very much like this property. I loved it the first time I saw it. I
96 was actually surprised it was even for sale. I negotiated with the neighbor out back that owned it, Mr. Peters.
97 Very nice man, and was able to acquire and was very excited as I said. Went through those renovations and
98 was stopped short a little bit that I can't even utilize the existing sign without coming to you guys, so here I
99 am. The...I want to use this exclusively for the sale of my insurance business. This property is obviously today
100 wasn't at the time it was designed and build, but today it's not in conformance in about one hundred (100)
101 different areas. It was 102 which is...I'm very excited to be one, and I need a way to be able to drive the
102 customers and utilize signage to get the customers to get to my site. It does not actually have a driveway on
103 102. It actually is approached from McAllister Road in the back which is one of the reasons why it's very
104 important for me to be able to have the legibility that it's on 22 McAllister Drive. If you look at the sign at the
105 bottom, we have that address there so that way they know the property and they'll be able to go to the light
106 and take a right, so it's important that they'll be able to see that from the road. It's only a sign for just Beals
107 Insurance Agency use. I then went a spoke to...there's an attorney out back across the street on McAllister
108 Road. I met with her. I met with...earlier in 2014 with the people/nice family that own the monument
109 business and I let them know what my intentions were with the property. They've been over. The original
110 owner was over multiple times and obviously spoke with Mr. Peters because those are the abutter what
111 would be directly affected by anything that I do, so I felt if would be a good idea to talk with them. Get any
112 suggestions and they have been...you know no news is good news. They've been very very supportive, and
113 the attorney across the street...I was concerned that the new lighting that I had put in back affected here.
114 She's says no the more the merrier, so I've done what I could to work with the neighbors to make sure that I'm
115 caring about their concerns and their needs as well. You want me to go Mr. Chairman into the five points?

116
117 JIM SMITH: Okay, a couple of questions...

118
119 STEPHEN BEALS: Sure.

120
121 JIM SMITH: ... before we go there. Has this property been surveyed?

122
123 STEPHEN BEALS: Been surveyed by me? No, but obviously...It's...I don't know?

124
125 JIM SMITH: So these lines that are on these pictures are just...

126
127 STEPHEN BEALS: That came from the Town. Those are right out of the Planning Board's office.

128
129 JIM SMITH: Basically, estimates?

130
131 RICHARD CANUEL: Well, it's an estimate enough to determine that the sign is within the fifteen (15) foot
132 setback.

133
134 STEPHEN BEALS: Yes.

135
136 NEIL DUNN: Well, there's two (2) different pictures. One shows it's looking like it's...outside the setback, and
137 one...
138
139 JACKIE BENARD: Going through it...
140
141 [Overlapping comments]
142
143 RICHARD CANUEL: It's probably because of the angle of the photograph?
144
145 JACKIE BENARD: Oh, okay.
146
147 [Overlapping comments]
148
149 JIM SMITH: Okay, I think part of what I'm trying to get to is...you want to have it what fifteen (15) feet within
150 the property line
151
152 STEPHEN BEALS: I want to have it exactly where it is now. There's an existing sign there right now. I'm
153 looking to literally to put the vertical beams in exactly the same spot that are there now.
154
155 NEIL DUNN: Then from the South, it looks like it's in. From the...
156
157 JACKIE BENARD: West?
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159 JIM SMITH: Yeah.
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161 NEIL DUNN: Boy, it looks like it...
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163 JACKIE BENARD: Because the South looks fine?
164
165 NEIL DUNN: So does the West.
166
167 [Overlapping comments]
168
169 JIM SMITH: Yeah, but again, it's not a surveyed line.
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171 JACKIE BENARD: Then there's the North.
172
173 [Overlapping comments]
174
175 JIM SMITH: Yeah.
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177 JACKIE BENARD: I see what you mean.
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179 JIM SMITH: I think part of what I'm getting at...I don't know if Richard agrees, or what he thinks about it?
180 Without actually knowing where the property line is relative to this sign, we are kind of in a quandary as to
181 whether the sign is on your property, inside your property, or where is it?
182
183 STEPHEN BEALS: It's clearly on my property. It's...the property line is considerably outside of that. That's just
184 the right of way that we're talking about...that the leg towards the road is right within a foot of the right of
185 way, but my property line goes significantly past that sign. It's not even in play. That's the right of way sir?
186
187 [Overlapping comments]
188
189 JIM SMITH: What do we know about the property line?
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191 RICHARD CANUEL: Well, I don't know. I guess we could take a look at the actual State right of way, and try to
192 determine the limits of that right of way is would give us probably a closer estimate of where that property
193 line is, but without an actual survey of the property that's difficult to determine. As I said, using the Town's
194 GIS system that's probably the closest and best information I have available so...
195
196 JIM SMITH: Well again, when we look at several different pictures. One it's looks like the line goes through
197 the sign. The other one looks like it's on the edge of the sign, so it's not very definitive?
198
199 NEIL DUNN: So, maybe this will help? So what we're seeing Richard...I don't know if you've seen the pictures?
200 They have the black outline. That's actually the property line not the setback?
201
202 RICHARD CANUEL: I'm not seeing what you are seeing so...
203
204 STEPHEN BEALS: Yeah, I'm not either.
205
206 JIM SMITH: Well, okay...
207
208 [Overlapping comments]
209
210 JIM SMITH: Let's back up...
211
212 RICHARD CANUEL: I don't have that in front of me so...
213
214 JIM SMITH: ...back up one step. What this State taking...State right of way was a land taking. Was that not
215 true?
216
217 RICHARD CANUEL: Yes.
218
219 JIM SMITH: So, that created a new lot line?
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221 RICHARD CANUEL: Yes, and that's what made this a non-confirming sign.
222
223 JIM SMITH: Okay. Just so you understand?

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STEPHEN BEALS: Um hm.

JIM SMITH: The edge of the right of way is in fact your lot line. Regardless of what was there twenty (20) years ago.

STEPHEN BEALS: Um hm.

JIM SMITH: Because they actually took from the edge of the right of way towards the road as State property. So, I think before we can go very far with this, we need to at least establish where that lot line is? I mean you don't have to survey the whole property, but at least that one side?

STEPHEN BEALS: I have to be honest with you Mr. Chairman. I'm deeply frustrated about the process that I have been put through so far. This...I emphasize that very strongly.

JIM SMITH: Yeah.

STEPHEN BEALS: Deep respect as to what you people do.

JIM SMITH: Yeah, yeah.

STEPHEN BEALS: I have been led...to come here and find this out tonight after asking to meet with the code official, walk the site at length with deep discussion and then to be told after I purchased the property that we discussed the sign. We discussed the location of the sign. We discussed the square footage that I have available for the sign. At no time was I ever told...met with great deal of questioning...was I ever told by any of the code officials that I met with on the site that I was going to have to come to a Zoning Board of adjustment. The fact that happened was frustrating enough. To come here tonight when I have been paying on this property for months throughout the winter because I was forced...I got this at such a late notice. The fact that I had to wait all winter long, and then come here because I'm ready to sign. I just paid twelve (12) thousand dollars for a sign. Coming here tonight...gotta get it out of their garage and deliver it here and find this out without any assistance or help on that ahead of time is extremely frustrating.

NEIL DUNN: The problem is if you put it up and you pay that money and it turns out to be on the State's property and they say...we could say put it there and the State will come by and say you can't put it there and rip it down. I mean...

STEPHEN BEALS: There are pins. Mr. Chairman, may I...

JIM SMITH: Sure, go ahead.

STEPHEN BEALS: There are pins there that clearly indicate on each end of the property by the monument, and if you draw a line between those two (2) areas it's about a foot and a half off on my property from that point. I have no problem if you want an insurance policy?

JIM SMITH: No, okay. I'm trying to get some background...

269
270 STEPHEN BEALS: I respect that.
271
272 JIM SMITH: ...and try to establish what you are doing. Okay, having...okay...
273
274 STEPHEN BEALS: I think I have a solution?
275
276 JIM SMITH: Those pins which you are referring to? Do we have any idea when those were set? Were they set
277 by the State, or by...?
278
279 STEPHEN BEALS: They're cement pins.
280
281 JIM SMITH: Richard do you have any idea?
282
283 RICHARD CANUEL: I have no knowledge of that at this point.
284
285 JIM SMITH: Ahh...
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287 NEIL DUNN: Well, if the State took it would they...?
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289 JIM SMITH: Wouldn't they have to survey it?
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291 NEIL DUNN: Wouldn't they have to survey it in order to change any deeds, or whatever?
292
293 JIM SMITH: Okay, just to go one step further. Richard, did you look at those two (2) pins and draw a line
294 between those two (2)? No?
295
296 RICHARD CANUEL: I did not.
297
298 JIM SMITH: No, okay.
299
300 STEPHEN BEALS: How does the sign stay there today, if the property was taken by the State?
301
302 JIM SMITH: Well sometime state doesn't show as much interest as in the signs as you might expect them to.
303
304 NEIL DUNN: Although they did on one years later because they...
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306 JIM SMITH: Yeah.
307
308 NEIL DUNN: ...doing some read entrance, some road changes, so they...
309
310 JIM SMITH: Yeah.
311
312 NEIL DUNN: ...in that general area, so again...
313

314 JIM SMITH: It's...if they decide to suddenly widen that road to the full width. It would become an issue at that
315 point. If it's in the wrong spot...probably up to that point they've got other things on the plate...I think they
316 was I'd like to proceed with this is...we can consider the case, and if we grant it, it will be based on the fact
317 that it's located in that location with the stipulation that it's...our best estimate it's a foot inside the line. If it
318 proves to be different all bets are off here.

319
320 STEPHEN BEALS: I'm not going to put a sign...on if it proves to be different, I'll make absolutely sure on record
321 tonight that I'm not going to put a twelve (12) thousand dollar sign on somebody else's property.

322
323 JIM SMITH: Yeah...

324
325 STEPHEN BEALS: You have my word on that.

326
327 JIM SMITH: Okay.

328
329 STEPHEN BEALS: I'll put it in writing.

330
331 JIM SMITH: I just want to make sure you fully understand what we're up against.

332
333 STEPHEN BEALS: I appreciate at least the sense that you're willing to consider and get this right. I want to get
334 it right too.

335
336 JIM SMITH: Yeah.

337
338 STEPHEN BEALS: I actually believe where the sign is...is going to prove to be perfectly fine, I believe that very
339 strongly.

340
341 JIM SMITH: Yeah.

342
343 STEPHEN BEALS: But if not, no problem.

344
345 JIM SMITH: Just so you know, can you come around? You can see...

346
347 STEPHEN BEALS: Sure.

348
349 JIM SMITH: Because you can look at these pictures.

350
351 STEPHEN BEALS: Yeah, because I don't even know...

352
353 JIM SMITH: Richard, why don't you come up just so you can see what we're looking at so we see where the
354 confusion is coming from. See when you look at this sign here, you can see the black line appears to...

355
356 STEPHEN BEALS: Yes.

357
358 JIM SMITH: ...go through your...

359

360 [Overlapping comments]

361

362 JIM SMITH: Then you look at that one and it looks like it's at the base of it.

363

364 [Overlapping comments]

365

366 STEPHEN BEALS: That's, that is...if you draw a line that black line, I'm sorry...

367

368 [Overlapping comments]

369

370 STEPHEN BEALS: ...that black line is actually about a foot out of that sign...

371

372 JIM SMITH: Again, this you know, this is what we're...that tends to be the same way.

373

374 [Overlapping comments]

375

376 STEPHEN BEALS: ...I have no problem making sure...my problem is if I move that sign in fifteen (15) feet you
377 can see what that causes me.

378

379 JIM SMITH: Yeah.

380

381 JIM SMITH: I'd literally be plowing snow into my sign.

382

383 [Overlapping comments]

384

385 JIM SMITH: Again, this is why we're...

386

387 STEPHEN BEALS: No problem.

388

389 JIM SMITH: Okay.

390

391 STEPHEN BEALS: Yup, I get it.

392

393 JIM SMITH: Just so you understand.

394

395 STEPHEN BEALS: Yup, thank you. I was chomping at the bit to see it, and I never go that here.

396

397 [Laughter]

398

399 JIM SMITH: Again, Richard this is where our confusion is coming from. Okay? Okay, having said all that let's...

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401 [Overlapping comments]

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403 ANNETTE STOLLER: Mr. Chair?

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JIM SMITH: Yes.

ANNETTE STOLLER: Shouldn't he also run it through the State division there, and see just what the setback is? I ran into this myself on another State road a few years ago, and if you don't go through them you know you can get all the answers in the world, but you could be making a big error.

JIM SMITH: Okay. Having...based on what she's saying. What we could do is continue tonight. We'll make our decision, but I think which Annette is trying to suggest you probably should check with the State before you...

STEPHEN BEALS: No problem. I appreciate what you are doing because what I can't do it wait another month after I've been...

JIM SMITH: Okay.

STEPHEN BEALS: ...because of the situation, I was forced to wait four (4) /five (5) other months, and Richard did say that I could put up a temporary sign at one point, so maybe at this point, I need to do that? Until I can get those things addressed?

JIM SMITH: Okay.

STEPHEN BEALS: But if I could get a hearing tonight, and have a judgement one way or the other that would at least let me...and to those points, I'd be more than happy to do that.

JIM SMITH: Okay, why do you go ahead....

STEPHEN BEALS: Sure.

JIM SMITH: ...and make your presentation, and we'll go from there.

STEPHEN BEALS: I'm almost afraid.

[Laughter]

STEPHEN BEALS: Facts supporting the requests Sir, did you want me to go through those?

JIM SMITH: Yes.

STEPHEN BEALS: The variance will not be contrary to the public interest. It's basically replacing a deteriorating sign that is already there. The new sign is updated at you see. It is also internally illuminated, so the fact that that's the case we're not going to be having spot lights potentially facing traffic...oncoming traffic, so that will be improvement as well as the fact that all the other signs around that whole area are all internally illuminated signs. So it'll make it consistent with the surrounding signs in the area. The nature, if you look at the design of the sign. It's more of a colonial approach which is opposed to the very for lack of a better word

449 somewhat Mickey Mouse sign that is there right now, and the condition it is in as well. This is going to actually
450 enhance the property around, so I think that meets the public interest as well as the fact that it's going to
451 provide customers and people an option to see where the business is located so they won't get lost and they'll
452 be directed properly to the premises. The spirit of the ordinance is observed. This is a pre-existing sign
453 installed back in the 70's before the ordinance was created by today's standard this is a non-confirming lot.
454 There are roads that are on both sides of this property, and there's literally no other option to put the sign
455 except right to the property line because if I move it in as I said earlier, it's going to cause quite a bit of
456 problems with the existing parking lot that was put in. The request is only to replace the sign where it has
457 always been. Substantial justice as stated in the previous question. Justice is being served by allowing a new
458 sign to be installed in the same place that it is now. Obviously, now with the new information subject to the
459 items that have to be addressed and not further encroachment is taking place. At best, it's only going to go to
460 the place that it is right now or further in depending on the results. The current sign is deteriorating and is
461 justifiable to replace it obviously. The values of the surrounding properties are not diminished. The new sign
462 is much more esthetically harmonious with the surrounding area. It is much more upscale, and is internally
463 illuminated as opposed to be illuminated by spotlights. Replacing a sign of this design is completely consistent
464 with the surrounding signs that are already there. Arguably, it'll be one of the nicest one's in the whole area,
465 and it meets all the Town and Londonderry requirements as it relates to the square footage and height off the
466 ground. I am going to obviously am planning on making it within ten (10) feet as far as height to meet those
467 guidelines. However, Mr. Chairman, I'm very concerned about...with this winter with that amount of limit of
468 height or constriction there's going to be snow...if we have another winter like that, but we'll see. Do you
469 want me to go through number five (5)...Jim?

470
471 JIM TIRABASSI: Yeah, please.

472
473 STEPHEN BEALS: Mr. Chairman as well? Literal enforcements of the provisions of the ordinance result in an
474 unnecessary hardship. If said no fair and substantial relationship exists between the general public purposes
475 of the ordinance provision and the specific application of that provision to that property. Not being allowed to
476 replace the sign in its current condition would put the sign literally in the parking lot that is already there for
477 over forty (45) years and is non-confirming lot with no other place to go. There's literally no other place to
478 put that sign. You know, it might be able to go two (2), or three (3) feet inside because it may have to with the
479 results you said earlier, but anything further than that you're literally going to be plowing the snow into the
480 sign itself. The proposed use is a reasonable one. This is a...the business of residential use has been granted
481 here for many years, and the use now is even less intrusive that it was before with less bedrooms in the
482 building and less offices in the building and much lighter use than used before. The sign is nothing more than
483 before and is reasonable to expect to be able to market your business with some form of signage that meets
484 the regulations of the Town which this does. If the criteria...let me see ...to special conditions of the property
485 to distinguish it from other properties in the area the property cannot be reasonably used in strict
486 conformance with the ordinance and the variance is therefore necessary to enable a reasonable use of it. The
487 setbacks over the years have further encroached on this property when it was originally created and
488 constructed, and this sign is still off of the right of way that's what I still contend is the case. In no way is
489 effecting any AASHTO requirements as far as site distance or any property...any traffic constrictions its way off
490 the road. It would be fair and unjust not to grant a sign which is already there and already a non-confirming
491 situation. I'll take any more questions, if you'd like?

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493 JIM SMITH: Anymore further questions from the Board?

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JIM TIRABASSI: No.

JIM SMITH: No. Anyone in support? Opposition? Seeing none and no further comments? Close the public hearing take it under advisement.

DELIBERATIONS:

NEIL DUNN: I think my general thoughts Mr. Chairman, if I may? We've seen this before on 102 where they've...the State came in and took...widened the road and took a little swath of everybody which was really...you know, it really puts a burden on the property owners because to move it in fifteen (15) more feet because they want to have that wider right of way, if you will, it kind of becomes a pointless sign if it becomes too far setback off the road. I think we've express our concern that if it is their right of way then they'd have all the right to take it down, so it sounds like he's going to do due diligence there.

ANNETTE STOLLER: Do we know what the setback is?

NEIL DUNN: I mean other than...

JIM SMITH: Set back would normally be fifteen (15) feet from the property line.

ANNETTE STOLLER: Normally, but off of 102, off of a State road is it greater?

JIM SMITH: No. In other words, the State road...it's just based on the zoning of it not whether it's a State road, or a Town road, or whatever.

NEIL DUNN: How many years back did they had a land taking, if you will? To push the property lines to people?

JIM SMITH: Yeah, when they did that they created all kinds of problems.

NEIL DUNN: So, other than that, he'll really in conformance if it hadn't been a taking so you know other than the concerns that...and I'm sure as he stated, he doesn't want to invest that money if it's not...if he's not comfortable within his boundary would be my bigger concern.

JIM SMITH: Again, when you look at the picture shown in the parking lot the present sign is only ten (10), or fifteen (15) feet if he pushes it back? If it's that much?

NEIL DUNN: Nine feet here. So...

JIM SMITH: Also, by...if you do push it back you have vegetation on either side which are going to tend to block it even more than it is now.

[Overlapping comments]

539 JACKIE BENARD: One page three (3) of our presentation here who prepared that with the documentation?
540
541 NEIL DUNN: Page three (3) starting at the top?
542
543 JACKIE BENARD: Yeah, page three (3). Is that an official Town Record?
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545 NEIL DUNN: It has the Londonderry...
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547 JACKIE BENARD: So it has the seal on it.
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549 [Overlapping comments]
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551 NEIL DUNN: There's a drawing with some red?
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553 JACKIE BENARD: Yeah, with the red? That shows the fifteen (15)...
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555 [Overlapping comments]
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557 ANNETTE STOLLER: It says right on it.
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559 [Overlapping comments]
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561 NEIL DUNN: There's a property ID card, or something?
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563 [Overlapping comments]
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565 NEIL DUNN: It's for reference only. Okay, it's probably something Jaye did?
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567 JACKIE BENARD: Oh, okay.
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569 [Overlapping comments]
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571 NEIL DUNN: So in respect to granting the variance would not be contrary to the public interest because it's
572 replacing an existing sign that has been pushed to the edge of the property line by land taking. I mean, I don't
573 know? You know as a general rule, I like to clean up non-conforming signs, but when we see the three (3)
574 we've had tonight...sometimes it just doesn't make sense with what we have going. I'm fine that number
575 one...granting the variance would not be contrary to the public interest. It still looks like it's sitting back more
576 than the fifteen (15) feet you would see at these other properties where there you know six (6) feet off the
577 property and twenty (20) feet high, so...
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579 ANNETTE STOLLER: Sitting here, we don't know that?
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581 NEIL DUNN: No, I go by it all the time. What do you mean? Sitting here, we don't know that?
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583 ANNETTE STOLLER: Yeah, I drive by it too.

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NEIL DUNN: No, I mean the look when you go by it...it does not look like its up on the edge of the property line. Again, it gets back to the...you know the variance...granting the variance would not be contrary to the public interest because he's replacing an existing sign. I'll be it it's non-compliant if there's some situations there where the land taking took it over? I have no problem with that. He's replacing something that's there. He's not making it any bigger. I don't see where it impacts the public interest?

JACKIE BENARD: So if we go through the five points of law and we don't and in his favor can we put something in writing that we're putting him...

NEIL DUNN: Subject to it being on this property?

JACKIE BENARD: ...correct because it would be a great travesty should it really be granted and he has to move it and he has all these costs. We've got to make sure that we express that.

JIM SMITH: Okay, I think that's part of what we've done...

JACKIE BENARD: At the end, we'll do?

JIM TIRABASSI: Right.

JACKIE BENARD: I know we've discussed it, but...

JIM SMITH: ...he should check with the State...

JIM TIRABASSI: It would be that properties responsibility to make sure...

[Overlapping comments]

JIM TIRABASSI: ... in conjunction with the State that it meets all right of way.

NEIL DUNN: We might find the deed was altered and if it's a clean two points. I mean that's his comfort level.

[Overlapping comments]

JIM TIRABASSI: He will have the ability based on the approval of this Board, but it will be up to him to take it to the other people to deal with them as separate.

JIM SMITH: We're basing our decision...

JIM TIRABASSI: Right.

JIM SMITH: ...on the information...

JIM TIRABASSI: Right.

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JIM SMITH: ...we have in front of us.

JIM TIRABASSI: Right.

JACKIE BENARD: Correct.

JIM TIRABASSI: He'd have that information. He's not going to them unless he knows he's got the ability to do the sign, but if he's got the ability to sign then he can take it to the other organizations.

JIM SMITH: Let's try to get through the five points.

[Overlapping comments]

JACKIE BENARD: So we met the first one.

JIM SMITH: Yeah, okay. Spirit of the ordinance is observed.

NEIL DUNN: It doesn't change...

JACKIE BENARD: It's pre-existing.

NEIL DUNN: ...it doesn't change the character of the area...

JACKIE BENARD: It doesn't, no.

JIM SMITH: Substantial justice number three.

NEIL DUNN: Substantial justice typically we have to get back to looking at the gain for the public outweighing, or not being outweighed by the harm to the applicant, and in this case, there's nothing really gained?

JIM SMITH: No.

NEIL DUNN: So I'm fine it would do substantial justice because it...

JACKIE BENARD: Well substantial justice is done because there's some kind of spotlight that illuminates the old one, and it's deteriorated, and this one would be current not so obtrusive?

JIM SMITH: It improves the site.

JACKIE BENARD: So it improves...it's an all-around improvement?

JIM SMITH: Right. Again, values surrounding properties...I would say that would...

[Overlapping comments]

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JIM SMITH: ...help because now we're putting in a more modern/up to date, esthetically pleasing sign.

JACKIE BENARD: And then literal enforcement?

NEIL DUNN: What are you looking...oh; you're looking at this...

JIM SMITH: Well we're just kind of following that but...

[Overlapping comments]

NEIL DUNN: Yeah, no, no. I was looking for the literal enforcement...when she said that last time, I was like...5A is that what you are doing there?

JIM SMITH: Yeah.

NEIL DUNN: Okay, thank you.

JIM SMITH: Allows him to replace an existing sign it doesn't really change. There's no gain to the general public by having the sign further back. In fact, it would be detrimental because you couldn't see it as well. I guess the second part there what's unique the fact that the State right of way has taken a lot of the property.

JACKIE BENARD: So, the literal enforcement would result in unnecessary hardships so it's for...so fair and substantial...no fair and substantial relationship exists between those two?

JIM SMITH: No. Proposed use is a reasonable one? Yes, buys an effective sign. Effective up to date sign. Want to make a motion when you get done?

JACKIE BENARD: I'll finish the night. Mr. Chairman, I'd like to make a motion to grant the variance for Case No. 4/15/2015-3 - Bridgwood Holdings, LLC to allow the replacement of an existing non-conforming sign located within the required fifteen (15) foot setback as restricted by Section 3.11.8.B at 22 McAllister Drive.

JIM SMITH: Jim, do you want to...?

JIM TIRABASSI: Second.

JIM SMITH: Jim seconds. All those in favor?

ALL: Aye.

RESULTS: THE MOTION TO GRANT CASE NO. 4/15/2015-3 WAS APPROVED, 5-0-0.

RESPECTFULLY SUBMITTED,

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718
719 NEIL DUNN, ACTING CLERK

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721 TYPED AND TRANSCRIBED BY NICOLE DOOLAN, PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT
722 SECRETARY.

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724 **APPROVED MAY 20, 2015** WITH A MOTION MADE BY NEIL DUNN, SECONDED BY JACKIE BENARD AND
725 APPROVED 5-0-0.
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