

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

1  
2  
3  
4  
5 DATE: AUGUST 19, 2015  
6  
7 CASE NO.: CASE NO. 8/19/2015-2  
8  
9 APPLICANT: ALLIANCE ENERGY CORPORATION  
10 36 EAST INDUSTRIAL ROAD  
11 BRANFORD, CT 06405  
12  
13 LOCATION: 1 HAMPTON DRIVE, 7-73-1, C-II  
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: VARIANCE TO ALLOW A FREESTANDING SIGN WITH A CHANGEABLE  
26 ELECTRONIC MESSAGE BOARD WHERE OTHERWISE PROHIBITED BY  
27 SECTION 3.11.7.E.3.  
28  
29 PRESENTATION: N. DUNN READ THE CASE INTO THE RECORD. SIX PREVIOUS CASES.  
30 ONE LETTER READ INTO THE RECORD.

31  
32 JIM SMITH: Who will be presenting?

33  
34 MARK GROSS: I will, Mr. Chairman.

35  
36 JIM SMITH: Name and address.

37  
38 MARK GROSS: For the record, my name is Mark Gross. I'm with MHF Design Consultants representing  
39 Alliance Energy Corporation. Dan Barry is here this evening with me.

40  
41 JIM SMITH: Okay, before you start. I want to ask a question. This is a pet peeve of mine. How many  
42 freestanding signs are allowed on your property?

43  
44 MARK GROSS: I believe one.

45 JIM SMITH: Okay. What do you consider the signage which is on each gas pump?  
46  
47 MARK GROSS: In accordance with your ordinance, it's allowed. A certain size is allowed for each gas pump in  
48 terms of the pricing.  
49  
50 JIM SMITH: Pricing?  
51  
52 MARK GROSS: Right. Give me a moment, I'll look.  
53  
54 JIM SMITH: Do you have the name of the company on this? Yeah, that's the plan.  
55  
56 MARK GROSS: Are you talking about on the pumps themselves? It's says "Price information signs on gasoline  
57 pumps are permitted indicating the name and type of gasoline and the price thereof. Such sign shall not  
58 exceed one square feet in size per sign". That's in your ordinance.  
59  
60 JIM SMITH: Okay, do you have the name of the company on the sign? On the pump.  
61  
62 DAN BERRY: Yes.  
63  
64 MARK GROSS: Yes.  
65  
66 DAN BERRY: Global Gas.  
67  
68 JIM SMITH: Is that in conformance with that section?  
69  
70 MARK GROSS: I don't know at this point and time?  
71  
72 JIM SMITH: Okay, I just wanted to raise that issue.  
73  
74 MARK GROSS: Right.  
75  
76 JIM SMITH: Okay.  
77  
78 MARK GROSS: Before I start, really the premise of this is based on the definitions in your side ordinance as  
79 they relate to changeable copy and as they relate to electronic reader board and I'll present those in the  
80 criteria as we go along. So we are requesting a variance from Section 3.11.7.E.3 of the zoning ordinance for  
81 the following reasons. To allow an existing freestanding sign to display the price for fuel with electronic LED  
82 changeable copy where changeable electronic message board signs are prohibited under the section of this  
83 ordinance. The reason I read it that was...is that there are two definitions here changeable copy which is  
84 represented by the pricing and then your ordinance prohibits message boards which we don't believe that  
85 the changeable copy represents the definition of readable...of an electronic message board. Again, a variance  
86 was granted for the sign height in 20 feet by this Board in April of 2015 this year. I like to just address the  
87 criteria. So the variance criteria for this sign variance is from Section 3.11.7.E.3. The variance will not be  
88 contrary to the public interest because the existing sign was allowed by variance, height granted to 20 feet,

89 and will display the price of gas as required and will utilize LED technology for the changeable copy which is  
90 the pricing only to allow a traveling motorist to see the price of gas prior to entering the site. Because gas  
91 prices fluctuate frequently, it will much easier to keep up with the fluctuation using the LED technology that  
92 can be changed electronically versus using changeable copy that is and was historically done manually. The  
93 spirit of the ordinance observed because the only part of the signage that is considered as changeable copy  
94 would be the gas pricing and it would only be changed electronically when the gas prices change which at  
95 times could be daily, weekly, or monthly depending on market fluctuations. The LED lighting for these prices  
96 would be steadily lit with no moving and or flashing elements. In accordance with Section 3.11.6.D.3.a the  
97 ordinance reads as follows, and this is a direct quote "Within the Commercial I, II, III and MUC sub-districts  
98 signs are permitted as follows - A. One free standing sign for each developed parcel up to a maximum of 65  
99 square feet. Of the total sign face area allowed, 75 percent may be used for changeable signage". This site is  
100 within the C-II district and therefore is allowed changeable signage which the gas pricing would be defined as.  
101 Additionally, in the ordinance under definitions the following applies – Sign Changeable Copy "A sign or  
102 portion thereof designed to accommodate message changes composed of characters, letters or illustrations  
103 that can be changed or rearranged either manually or electronically without altering the face or surface of  
104 such sign". As outlined in the building inspector's letter June 1<sup>st</sup>, 2015 regarding this issue, he defines the  
105 pricing as a changeable electronic message board sign. Which is prohibited under the Section of the  
106 ordinance that we are seeking relief from. However, the pricing element proposed for the sign does not  
107 follow under the definition in the ordinance for this type of sign which is described as follows...and this is  
108 from again your ordinance under definitions – Sign Electronic Message Board "A sign with a fixed or changing  
109 display message composed of a series of lights that may be changed through electronic means. Signs who's  
110 alphabetic, pictographic or symbolic informational content can be changed, or altered on a fixed display  
111 screen composed of electronically illuminated segments". The proposed pricing aspect of the sign is primarily  
112 numeric and technically does not fall in any of the categories described in the definition of electronic  
113 message board. Additionally, the pricing element does not have any of the aspects specifically prohibited and  
114 which are typical of electronic message boards such as animated, flashing, or moving elements. Therefore,  
115 allowing the LED pricing for the signage as proposed would be within the spirit of the ordinance. So it's very  
116 important in your definitions you describe what is considered an electronic message board and in there it  
117 does not indicate anything in terms of numeric. It talks about everything else except numeric, and the  
118 purpose which makes sense because an electronic reader board, or a changeable electric is one that has...you  
119 know the one's you've seen. Particularly, there's one in Plaistow as you come into town off of 125 which is  
120 probably the largest reader message board you've ever seen where it has flashing lights and it does  
121 everything...you know in terms of this definition. These are steady lit LED lights that are only changed when  
122 the price changes. So there's no flashing, there's no changing...you know ten seconds, fifteen seconds, as the  
123 most it might change daily, but that's not the norm. It will only change daily if the price fluctuations in the  
124 market change daily. That's pretty unusual. Substantial justice is done because it will allow the pricing  
125 element to be displayed such that it will be visible from the adjacent roadway and traveling public and that it  
126 meets more of the technical definition of changeable copy which allows electronic lighting in your definition  
127 than the definition of electronic message board. The values of surrounding properties will not be diminished  
128 because the pricing aspect of the signage is not obtrusive, is a small part of the overall signage, and the LED  
129 lighting aspect will not be overpowering to the rest of the existing sign, or the surrounding signs. This type of  
130 signage for pricing is unique to this particular use. So in other words, the board, if they grant this variance is  
131 not opening up a pleather of other uses coming in and saying "well, you know, we want to display this...".  
132 According to your ordinance, changeable copy can be displayed by electronic means. Now, I don't know

133 what that means other than what we are looking at is electronic means for the pricing. So the Board could  
134 specifically grant this variance for this specific use which would be appropriate based on your definitions that  
135 you currently have in your ordinance. Little enforcement of the provisions of that ordinance would result in  
136 unnecessary hardship because the special conditions of this property that distinguish it from other properties  
137 in the area as follows – the subject property was developed back in 1993 which allowed a certain type of  
138 signage at that time and used state of the art design that was available at the time. Since then technology  
139 has changed significantly and use of these changeable copy pricing signs is the new state of the art  
140 technology which is not only energy efficient in the use of LED technology, but also provides a n easier way of  
141 changing prices which is required in an often time fluctuating market. Typically, in the winter time if the  
142 changes...you have to have somebody go out get on a ladder and put those numbers up and it's...it is difficult  
143 and it is a hardship for the business. For purposes of this subparagraph...unnecessary hardship means that  
144 owing to the special conditions of the property that distinguish it from other properties in the area. There's  
145 no fair and substantial relationship that exists between the general public purpose of the ordinance. In this  
146 case the sign ordinance, and the specific application of that provision to the property because the current  
147 ordinance allows for changeable copy which the pricing aspect of this sign should be defined as...since it fits  
148 no other description, but does not technically fall under the definition of electronic message board. It is  
149 primarily numeric in nature and does not fit in the description of alphabetic, pictographic, or symbolic  
150 information content. So for example, alphabetic is obvious; it is letters A through Z. Pictographic is you know  
151 displaying a picture, or photograph, or what have you using LED technology. Symbolic is everything that you  
152 have...and I'll use the typewriter keyboard, so other than the numbers, and the letters everything else on  
153 there – the ampersand, the and sign, the exclamation point are all considered symbolic, and dashes. So in  
154 your definition, you have nothing that prohibits numeric display where it's not included in the electronic  
155 reader board definition. So therefore, there is no fair or substantial relationship of the proposed pricing  
156 aspect of this sign to the general public purposes outlined in the sign ordinance as it relates to this particular  
157 property. The proposed use is a reasonable one because the property owner will be allowed the pricing  
158 aspect of the signage which is required and it can be seen from the adjacent roadway and by the traveling  
159 public utilizing this facility. Additionally, it will have none of the aspects of this traditionally associated with  
160 an electronic message board such as animated, moving or flashing elements. With that, that concludes my  
161 presentation and I welcome any comments, or questions from the Board.

162  
163 NEIL DUNN: Mr. Chairman, if I may? Since you're drilling in on the technical electronic message doesn't talk  
164 about numbers. If we go up to the Sign Changeable Copy, it doesn't mention numbers there either. It talks  
165 about characters of letters.

166  
167 ANNETTE STOLLER: What is...

168  
169 JIM SMITH: Richard, how does this definition which they've quoted where it says Sign Changeable Copy and  
170 it goes through, and the last thing it says electronically. How does this fit into this?

171  
172 RICHARD CANUEL: Well as the Board knows, you know the definitions are there to clarify the terms that are  
173 written in the body of the ordinance. It's the body of the ordinance that applies. Not necessarily the  
174 definitions that are there. Also, as the Board knows, as the zoning administrator I have to make a literal  
175 interpretation of the ordinance. In looking at the definition that describes Electronic Changeable Signage, I  
176 go back to the ordinance text and it says that form of signage is prohibited in all districts. Period, so...so it's

177 the Board that has the flexibility to make a determination whether the definition clarifies the difference  
178 between alphabetical electronic signage and numerical electronic signage, and whether the numerical  
179 signage is permitted.  
180

181 ANNETTE STOLLER: Mr. Chair, if I may? Mark, your case on this subsection seems to be that numbers were  
182 omitted from the description. Am I correct? It was an error of omission?  
183

184 MARK GROSS: No, what I'm saying is that I think maybe the intent of this and let me follow through on that  
185 thought...a lot of banks and other business like to use electronic boards for temperature and time particularly  
186 banks. In that case, again that's numerical. So perhaps, and I don't know who wrote this section of the  
187 ordinance...symbols whether it be smiley faces, or what have you...  
188

189 ANNETTE STOLLER: So in...  
190

191 MARK GROSS: So I don't think the intent of that was to prohibit the use of LED technology for things such as  
192 time, temperature and potentially pricing.  
193

194 ANNETTE STOLLER: Do you think your client, or yourself would be open to limiting what would go on that  
195 electronic board? For example, in your request, put in pricing.  
196

197 MARK GROSS: As far as?  
198

199 ANNETTE STOLLER: Well, ahh...  
200

201 MARK GROSS: It would be as depicted on that plan, so it would be pricing only – nothing else. So in other  
202 words, you're not going to see that sign saying "get gas now here...". You know, it's what is depicted as is  
203 which is basically three numbers. Hopefully, it will never go to four numbers.  
204

205 ANNETTE STOLLER: That's what I was thinking.  
206

207 MARK GROSS: Well, I don't think gas will ever get to ten dollars a gallon hopefully? Although, Dan might  
208 think differently, but...  
209

210 ANNETTE STOLLER: Are you sure of that?  
211

212 [Laughter]  
213

214 MARK GROSS: ...as far as restriction, our restriction is self-imposed. It would be at the most once a day and  
215 that would be very infrequent. So it's...and because you have to display the price of gas. It's probably very  
216 unusual that the price of gas changes on a daily basis. It's probably more like a weekly basis. If anything.  
217

218 ANNETTE STOLLER: Yeah, but I've been watching gas prices change. Not regularly on a daily basis, but on a  
219 daily basis, I've seen it.  
220

221 MARK GROSS: But it would be once a day, as the most, and that's...  
222  
223 ANNETTE STOLLER: That is...  
224  
225 MARK GROSS: ...and again, that's very...  
226  
227 ANNETTE STOLLER: ...that is correct.  
228  
229 MARK GROSS: ...it's not flashing. It's not animated. It's not the number dancing across. It's going to be  
230 solidly lit and change when that price changes.  
231  
232 ANNETTE STOLLER: So you could do it...  
233  
234 MARK GROSS: So limitations, if those are limitations that would make the Board comfortable...yes, we would  
235 agree to that.  
236  
237 ANNETTE STOLLER: ...so you take away all the fun.  
238  
239 [Laughter]  
240  
241 NEIL DUNN: So back to my question, and just to help me with my clarity. I know it's getting into this number  
242 thing. So you're saying that because maybe banks had numbers they didn't want to include those. So when I  
243 go back to the copy portion that doesn't talk to numerical indicators. It's even like that's not allowed in that  
244 type of copy either? So to reference it so specifically, I'm trying to get some guidance from you because in  
245 one incidence you're using it to your advantage and one instance you don't?  
246  
247 MARK GROSS: Well, I think in terms of also the definition of changeable copy. It says that you're allowed to  
248 change copy electronically. In your definition of changeable copy. The...I guess the crux of this is that the  
249 interpretation is that any sign whether it would be changeable copy or permanent that is electronic is  
250 prohibited because it's defined as a reader board. I guess what I'm saying is the interpretation of a reader  
251 message...electronic message reader board is not what this changeable copy falls into.  
252  
253 NEIL DUNN: Okay. Um, if I may, Mr. Chairman?  
254  
255 MARK GROSS: And, I guess the definition is more towards the animated, moving and flashing because that is  
256 really what a reader board...that's really...the ordinance by definition electronic reader board and those  
257 terms – animated, flashing, or moving is really what you what you want to prevent from coming into Town.  
258  
259 NEIL DUNN: But, we also want to prevent the light and the...  
260  
261 MARK GROSS: Because...right...  
262  
263 NEIL DUNN: ...I think if you look at 3.11.7.B.2, we talk about...excuse me 3.11.7.B.3, we talk about dark  
264 backgrounds, light colors and the signs are not to be glowing colors or fluorescent. So...

265  
266  
267  
268  
269  
270  
271  
272  
273  
274  
275  
276  
277  
278  
279  
280  
281  
282  
283  
284  
285  
286  
287  
288  
289  
290  
291  
292  
293  
294  
295  
296  
297  
298  
299  
300  
301  
302  
303  
304  
305  
306  
307  
308

MARK GROSS: Right.

NEIL DUNN: ...to me, it's more of a glowing color. Which my understanding having lived here 30 plus years, we're trying to keep the volume of the light pollution in that Hollywood look, and the Las Vegas down. So it's all taken in gestalt together not just little pieces, so...

MARK GROSS: In terms of LED technology, the actual glow is less than a regular incandescent.

NEIL DUNN: I'm not arguing that.

MARK GROSS: Right.

NEIL DUNN: What I'm saying...

MARK GROSS: So...

NEIL DUNN: ...what I'm saying is that's glowing as opposed to what a normal sign what we are looking for in Town is.

MARK GROSS: ...right, but a normal sign that might have incandescent lighting would probably put our more illumines than the LED. So the aspect of the glow is less for this sign than if you did something with that lighting conventionally.

NEIL DUNN: So if we had what on black with a background of lit fluorescence and a normal translucent thing where you can kind of read the letters, or we have light shining on it. Yes, we would probably have more illuminants, or light pollution which is something which maybe should be discussed, but this is more the aesthetics of it. From my perspective, and I'm trying to help get around that...that general thought that we don't want these fluorescent, or glowing signs.

MARK GROSS: I again, go back to the definition of electronic reader board and the key definition to that is flashing, moving and animated. So what that does is...it's distracting. It's obnoxious, and the lighting is variable, so you have something moving across the screen. The light is much more fluctuating...

NEIL DUNN: Um, hmm.

MARK GROSS: ...and distracting than if you have a steady glow on that same lighting. So what I'm saying is that that the proposed lighting for the pricing under changeable copy is not...should not be considered as a reader...under the reader message board criteria definition.

JACKIE BENARD: Mr. Chairman, if I may?

JIM SMITH: Sure.

309 JACKIE BENARD: The definition under our brand new zoning book that we have received – the Electronic  
310 Message Board on Page 176, it specifically states “signs who’s alphabetic”, so it’s not alphabetic;  
311 “pictographic”, or “symbolic”. Aren’t numbers symbolic?  
312  
313 MARK GROSS: No.  
314  
315 JACKIE BENARD: What is a number?  
316  
317 MARK GROSS: It’s numeric.  
318  
319 JACKIE BENARD: But it’s a symbol?  
320  
321 MARK GROSS: No...  
322  
323 [Overlapping comments]  
324  
325 MARK GROSS: ...a symbol is an exclamation point. I go back to your typewriter board, or keyboard.  
326  
327 JACKIE BENARD: Is guess what my point is because you are referring...  
328  
329 MARK GROSS: Symbolic is...  
330  
331 JACKIE BENARD: ...to somebody being able to understand the price of fuel when they get off, so it’s a symbol.  
332 They read it. They know what the price of fuel is.  
333  
334 MARK GROSS: ...but if you read the definition of a number. It’s numeric. Symbolic is a symbol. That’s...I  
335 mean that’s a basic definition out of you know...that’s how I read it. I don’t interchange numbers with  
336 symbols and symbols with numbers. There two distinct things. A number is considered numeric and a  
337 symbol is...whatever symbolic is a symbol like an exclamation point. Everything on the top row of your  
338 keyboard is a symbol. Ampersand and parenthesis those are all symbols. They are not numbers.  
339  
340 JIM SMITH: One other question. How many grades of fuel do you sell there?  
341  
342 DAN BARRY: It’s four.  
343  
344 JIM SMITH: Four. Okay, in this picture, you’re just showing...?  
345  
346 DAN BARRY: Two.  
347  
348 MARK GROSS: Two.  
349  
350 JIM SMITH: ...the price of regular and diesel? How would you show...does the state law require you to show  
351 the price of all types?  
352



353 MARK GROSS: No, just two of the grades. Diesel and one grade of the regular gas.  
354  
355 JIM SMITH: Okay.  
356  
357 MARK GROSS: So the sign that you see before you that's included in the package is a sign that would be put  
358 up. There would be no additional pricing above the two that you see on this plan.  
359  
360 ANNETTE STOLLER: So, may I ask, Mr. Chair? So the only...which is the difficulty that I have in some gas  
361 stations...the only different pricing will be visually seen above the pumps.  
362  
363 DAN BARRY: Right.  
364  
365 MARK GROSS: Yes.  
366  
367 ANNETTE STOLLER: Which makes it...?  
368  
369 MARK GROSS: Most people...  
370  
371 ANNETTE STOLLER: ...a place I frequent...infrequently because it's not clear. You can't drive by with all this  
372 signage we're talking about...you can't drive and see the price of regular versus medium versus high test. You  
373 can't see that because there's only two things represented on the major sign, and that seems to be the case  
374 everywhere.  
375  
376 MARK GROSS: If think the reason the regular because...I think the regular is the mid-level...  
377  
378 DAN BARRY: Most people buy.  
379  
380 MARK GROSS: ...most people buy regular. Most people don't...unless they have a vehicle that requires you  
381 using...most people buy regular, so that's why that's the one that is displayed. Is the one that sells the most.  
382 Because obviously you want people to come into your station. So if you're advertising the high test, and  
383 most people don't use that unless their vehicle absolutely requires it then you're not going to have a lot of  
384 business.  
385  
386 ANNETTE STOLLER: There seems to be an additional demand for that with people using larger SUV's and  
387 other reasons, so to speak. A truck driving population might need more? I have just always been confused  
388 because I can't see the other grades unless I go...  
389  
390 MARK GROSS: Into the station.  
391  
392 ANNETTE STOLLER: ...right past the pumps.  
393  
394 MARK GROSS: I usually go into a station, particularly if I'm on empty, so I'm not fussy.  
395  
396 [Laughter]

397  
398  
399  
400  
401  
402  
403  
404  
405  
406  
407  
408  
409  
410  
411  
412  
413  
414  
415  
416  
417  
418  
419  
420  
421  
422  
423  
424  
425  
426  
427  
428  
429  
430  
431  
432  
433  
434  
435  
436  
437  
438  
439

ANNETTE STOLLER: You have another problem?

MARK GROSS: Exactly, but again the premise is that it would be the two pricing. That would be it. Again, it's specific to this type of use only.

ANNETTE STOLLER: So what is out quandary at this point?

JIM SMITH: I'm in a quandary between these definitions. To tell you the truth, I understand what you're saying Richard, but when I look at the definition of Electronic Message Board...one of the key words I'm looking at is message. I mean we're talking about strictly the price of the fuel. There is no changeable message other than the actual price change. Does that truly fit the idea that it's a message?

RICHARD CANUEL: Again, that's I guess that something that the Board is going to need to determine. You know, I've already made my decision based on the literal interpretation of the ordinance, so if the Board feels that it's reasonable to allow the digital electronic signage then that's the Board's decision.

NEIL DUNN: It gives me a message what the price is.

JIM SMITH: Yeah, but you know...

NEIL DUNN: I mean really, seriously I'm not being facieses.

JIM SMITH: ...but again...

[Overlapping comments]

JIM SMITH: ...what this is saying, you know...and like I...you said something about one in Plaistow. I now there's one over in Nashua and they have pictures that keep changing from...to me that's...

ANNETTE STOLLER: Oh yeah, the little guys running...

JIM SMITH: Yeah, I think that's what an electronic message board in my mind is. I think the other aspect of this is, we also have to look at the potential safety of the personnel who have to go out there in various weather conditions and so forth to try to change those letters and so forth, and anybody who's tried to use one of those devices, it's not the easiest thing.

ANNETTE STOLLER: They're not changing letters?

NEIL DUNN: They shouldn't have put it 20 feet up in April?

JIM SMITH: I guess? I don't know...

440 BILL BERNADINO: That's a windy area. Right on 102, I've watched those numbers fly right off the reader  
441 board there at Global.  
442  
443 ANNETTE STOLLER: So a safety....  
444  
445 JIM SMITH: I think that's...  
446  
447 ANNETTE STOLLER: ...consideration?  
448  
449 JIM SMITH: ...something you absolutely have to look at.  
450  
451 BILL BERNADINO: Yeah, but its job security to for somebody to get out there.  
452  
453 [Laughter]  
454  
455 [Overlapping comments]  
456  
457 BILL BERNADINO: I'm a union guy.  
458  
459 JIM SMITH: Yeah, I know its type of automation, I guess yeah. Anyway, any other questions, or comments  
460 from the Board at this point?  
461  
462 ANNETTE STOLLER: I have a question. It's probably not relevant? Let's say Dunkin Donuts doesn't want to  
463 stay on their premises, do they have to come before us for a change?  
464  
465 JIM SMITH: Not really, I mean...if they wanted to take the Dunkin Donuts part off and increase the size for  
466 Global, I mean it's within their prevue.  
467  
468 ANNETTE STOLLER: Yeah. Whatever it is they might want to do, my question is do they have to come back to  
469 us?  
470  
471 JIM SMITH: All we're talking about is just what's in this...  
472  
473 ANNETTE STOLLER: Okay.  
474  
475 MARK GROSS: Not unless those prices are referring to their coffee being regular or high test, so...but no, I  
476 don't think so the variance is specifically for those gas...  
477  
478 ANNETTE STOLLER: Oh.  
479  
480 MARK GROSS: ...prices.  
481  
482 JIM SMITH: That's all we're talking about. The lower half of the sign. What's in that lower half?  
483

484 NEIL DUNN: Well, we might want to put in a restriction to make sure they don't add to it if that was a  
485 concern?

486  
487 JIM SMITH: Yeah, we could certainly do that. Okay, any other questions from the Board? Seeing none.  
488 Anyone in support of this? Seeing none. Anyone in opposition, or having questions? Please identify yourself  
489 for the record – name and address.

490  
491 DEB PAUL: Deb Paul, 118 Hardy Road. A few things, I don't know if you guys remember this, not too many  
492 years ago, maybe two years ago the Fire Department...you denied them a sign to put a phone number on.  
493 That's safety, and you said no because it doesn't go by the ordinances. So I'm going to start with that, and  
494 what is a sign? It's a message. Whether it's written, illuminated, not illuminated...I'm sorry; it doesn't seem  
495 to make a difference. Also, if you had all read our new Master Plan, it does not meet the intent of what we  
496 wish to do on 102. To change and have more of...we're going to be talking about putting more of old  
497 fashioned buildings in the front and parking in the back with sidewalks, so we're changing the look of it. For  
498 years I've heard as a resident, we don't want to look like South Willow. We don't want to look like 128.  
499 We're going down a slippery slope. Talk about numbers, so does this mean Market Basket can put up a sign  
500 like this and say "Steak - \$2.00", or "Wendy's - \$.99"...everything. You're walking down a slope that is very  
501 dangerous, and you should think about it. For years, gas stations have changed their numbers the way  
502 they've done it. I don't see in the paper or anything people falling off of buildings for changing the signs?  
503 Just saying. The other thing is maybe they shouldn't have put it up 20 feet. I don't know how many more  
504 customers having this is going to bring? If you have the lowest price, you have the lowest price. You're going  
505 to get the people going to your gas station. Whether you have a sign, or not. The other thing I want to bring  
506 out...wait a minute...you know, we're trying to make sure that we have good business relationships with the  
507 businesses in the Town, and it's really...you know getting picky...over details on interpretations, and every  
508 interprets things differently. Is...I don't believe it's a great way to have a relationship with the Town? The  
509 other thing is...maybe...they should be looking at maybe doing...if they're worried about people coming off  
510 the highway and using them specifically, maybe they should be looking at the DOT signs that are going to be  
511 changing, and if you are within so many feet within an exit, you get to have your name on that board sign. So  
512 maybe that's the way to go? Again, I just don't see the difference, and now you're going to have them going  
513 on all twelve gas stations going down the street. It's not one, it's not two, it's going to be twelve. Think  
514 about your Town and think about what's coming and think about...A the biggest thing is you denied the Fire  
515 Station this, putting up a phone number. That's all I had to say. Thank you.

516  
517 JIM SMITH: Anyone else?

518  
519 DAVID COLDGLAZIER: Yes, David Coldglazier, 6 Moulton Drive. So you've already heard from me once. I  
520 think part of the aspect that we're having a problem with is that when we dealt with prohibition of electronic  
521 signs that was at a time when electronic signs regardless of whether they were changing or not were quite  
522 bright. Had a lot of glare to them. Small points of light that were very bright, and people just didn't seem to  
523 like that. Let alone they didn't like the aspect of them changing. So okay, we're not going to change, but part  
524 of our signage that we are dealing with when people come in and will have changeable letters, is that we  
525 prefer to have a dark background and a solid white, or at least some type of a color that is solid uniform  
526 throughout. So in dealing with this, we do not have samples of what this is actually going to look like. So  
527 they may say "LED's", and that's fine, but does that mean that there is a uniform surface that is going to be

528 red, or white, or whatever color they want to have of the LED, or will it be a series of small intense spots that  
529 are more glare-prone I'll say, or create more glare when people look at them. So without samples, I think  
530 it's kind of hard to really judge more about whether or not this gets close to the idea of having something  
531 that's more subtle or uniform and obviously we can't go with channel letters because they just can't change  
532 them that way, but we are trying to get away from the brightness and the intense...small intense light aspect  
533 of the LED's and the old lighting electronic sign systems. I just don't know how this works out because it's not  
534 well defined that way and they may say well yes it'll be LED's...well is it going to be very small amounts of  
535 LED's all around like you have in your stop lights just spelling out things, or will it be a more subtle and  
536 continuous surface of some color? Thank you.

537  
538 PAULINE CARON: Pauline Caron, 369 Mammoth Road. I have been a resident of Londonderry for fifty-one  
539 years, and I've seen a lot of changes, and a lot of growth, and this zoning ordinance was crafted with  
540 knowledgeable people and had public hearings and the public gave their okay for what we have for the sign  
541 ordinance. Now messaging can be both numbers and letters, and if it's electronically changed it means it's  
542 changed from inside a building, and the ordinance specifically prohibits this type of signing. Now I'm a  
543 member of the Heritage Commission. This company came before the Heritage Commission on two occasions.  
544 On March 22, 2014, they came in to let us know that they would be destroying the present building that they  
545 had and they would be reducing the tanks from ten to eight. Their plan was not complete, so they came back  
546 the following month and at that time the Heritage Commission reviewed all of their plans, specifications,  
547 materials, landscaping, signage...what they were going to have for signs, how it was going to be lit, and to  
548 make sure that it conformed to the zoning ordinances. At no time, did they mention electronic message  
549 board, and I don't think they should be granted this variance because of the fact that it's electronically  
550 changed. The variance will be contrary to public interest. The spirit of the ordinance is not being observed.  
551 Substantial justice will not be done, and enforcement provisions of the ordinance will result in increasing  
552 hardship with the Town. This morning, I took a ride down 102 from Mammoth Road. From Mammoth Road  
553 to the Derry line. There are ten gas stations. Four of them before you get to Global, and four from Global to  
554 the Derry line. Now if you grant this to one gas station everybody else is going to want it, and then they're  
555 going to be electronic signs, and every business in Town is going to want an electronic sign. Pretty soon  
556 you're going to have a Las Vegas in Londonderry. If you grant this variance you are opening Pandora's Box,  
557 and you'll be sorry. That's all I have to say. Thank you.

558  
559 JIM SMITH: Anyone else?

560  
561 KAY WEBBER: Kay Webber, 24 Peabody Row. I've been here since 1960. When there was no 93, and 102  
562 had twenty-five cars in a twenty-four hour period, and it was two lanes. When I saw the pictures of the  
563 building that Global was going to build, I was very impressed, and I suggested to somebody on the Heritage  
564 Commission that they make a copy and start a file that a company would come in with such a beautiful  
565 building. Well I almost fell out of my chair this month when I saw that they had applied for an electronic  
566 signage. It may not be moving, but it's going to be lit, and I think this is a colonial Town with a nice mix of  
567 modern buildings on 102. We are fast approaching our 300<sup>th</sup> birthday of this Town. We have colonial  
568 houses, a designated scenic road, and a man that collects sap and makes maple syrup, and also cuts and bails  
569 hay, but I don't think that this is in the best interest of the Town, and as you know on July 1<sup>st</sup>, we had a New  
570 Hampshire law that you had to keep both hands on the steering wheel and both eyes on the road, and  
571 accidents can happen in four seconds or less if your eyes go off the road even to look at the price of gas. I

572 think a business can have a sign that is suitable for the size and height of the square footage. That they really  
573 don't need a lit sign, so I would appreciate it if you do not grant this variance.

574  
575 SUE JOUDREY: Sue Joudrey, 23 Peabody Row. I'm on the Historical Society and I'm on the Heritage  
576 Committee and everything thing that Pauline said is right, and I agree with Deb Paul. It's just...again, I don't  
577 want to open, like she said Pandora's box, or domino...I just...electronic signs, I've had friends of mine say, I  
578 don't want it looking like Las Vegas...Route 28 in Salem...South Willow, and all this stuff. Like they said, you  
579 let this in there's going to be more are going to nibble away at it. It just would awful. I think it would just  
580 do...like she said, it's trying to keep in country with all of our Heritage things that we do, and it's just too  
581 much. Too electronic. Too much light. Too much...so...I'm just very much against it. Thank you.

582  
583 JIM SMITH: Anyone else?

584  
585 RAY BRESLIN: Ray Breslin, 3 Gary Drive. A couple of things. As far as the LED numbers on the sign. I've seen  
586 a lot of those signs in different areas and the intensity of the LED's can be extremely bright. They can also be  
587 adjusted and that brings up a point of public safety. Like one of the lady's said earlier. If you take your eyes  
588 off the road, it becomes a matter of safety, and all too often the signage that we see along public roadways  
589 can be very distracting. I would also like to know...you have up here some pictures. Above the numbers that  
590 they are talking about for the price there is a Dunkin Donuts and a Global. Will those portions of the signs be  
591 lit?

592  
593 MARK GROSS: Yes.

594  
595 RAY BRESLIN: They will? How?

596  
597 MARK GROSS: LED's.

598  
599 RAY BRESLIN: LED's...

600  
601 [Overlapping comments]

602  
603 RAY BRESLIN: ...which can be extremely...

604  
605 MARK GROSS: It's an internal and illuminated sign.

606  
607 [Overlapping comments]

608  
609 RAY BRESLIN: Pardon?

610  
611 MARK GROSS: It's an internal and illuminated sign.

612  
613 [Overlapping comments]

614  
615 RAY BRESLIN: Well the numbers can be illuminated...

616  
617 JIM SMITH: Wait a minute. Wait a minute. Wait a minute. Direct your questions this way.  
618  
619 RAY BRESLIN: Well I'm trying to but they're...  
620  
621 JIM SMITH: ...No, no...  
622  
623 RAY BRESLIN: ...they're answering me.  
624  
625 JIM SMITH: No, no, no. They'll be given an opportunity to answer your questions.  
626  
627 RAY BRESLIN: Okay.  
628  
629 JIM SMITH: When they have the floor again.  
630  
631 RAY BRESLIN: Okay.  
632  
633 JIM SMITH: You can ask your questions. We'll just leave them out there, and then when they have their turn,  
634 they'll try to answer those questions.  
635  
636 RAY BRESLIN: Okay, so...  
637  
638 JIM SMITH: All we're really talking about is...  
639  
640 RAY BRESLIN: ...well...  
641  
642 JIM SMITH: ...in fact the...whether or not to allow these two things to be electronically changed remotely.  
643  
644 RAY BRESLIN: ...well...  
645  
646 JIM SMITH: As far as the rest of the sign goes, we're not even talking about that.  
647  
648 RAY BRESLIN: Well I believe we are.  
649  
650 JIM SMITH: No...there's no variance required to have an illuminated sign.  
651  
652 RAY BRESLIN: There isn't?  
653  
654 JIM SMITH: No. So we're not talking about that.  
655  
656 RAY BRESLIN: Okay.  
657  
658 JIM SMITH: Okay. Anything else?  
659

660 RAY BRESLIN: Thank you.

661  
662 JIM SMITH: Okay. We'll give it back to you to rebut anything that's been brought up.

663  
664 MARK GROSS: I think the overwhelming issue here is that this is being considered an electronic reader board,  
665 and what we're saying is it is not by your definitions. It's changeable copy that is allowed under your  
666 ordinance to be electronically changed. The crux of this is that the definition of that is now being considered  
667 as an electronic reader board. I'm saying it should not be because an electronic reader board has very  
668 specific definition of what is defined as an electronic reader board which is flashing, moving, animated as  
669 part of the definition. The other part of the definition defines it as pictronic, alphabetic and symbolic. As far  
670 as the intensity of the light...again, those internally lit portions and they can all be considered internally lit are  
671 LED lighting, so it's not really the issue of LED lighting because you're not prohibiting LED lighting in the  
672 ordinance particularly with the sign. As far as I know. It's just a type of lighting. It's not fluorescent. It's not  
673 incandescent. It's LED lighting. The crux or the issue here is that it changes, so the numbers change  
674 periodically. Sometimes weekly, sometimes daily...mostly weekly, and so all the arguments about opening  
675 Pandora's box...this variance will be specific for this use and this location. Now could other stations come in?  
676 Yeah, obviously they could. However, it's very expensive to replace a sign and probably the only time you're  
677 going to see that happen with this case is when the signs being redone. I don't think that some of the other  
678 gas stations are going to come in and specifically redo their sign at...I don't know what the sign costs, but they  
679 are not cheap. Just so that they can have the LED lighting for the pricing, and even if they did, it's no more  
680 intense if that were internally lit with LED signing. The difference here is in the definition of what an  
681 electronic reader board is, and I again based on the definitions and your ordinance, I do not consider this as  
682 an electronic reader board. It's changeable copy that is allowed to be changed electronically. So all the  
683 concerns about it being electronic reader board are really unfounded because it is not an electronic reader  
684 board.

685  
686 **DELIBERATIONS:**

687  
688 JIM SMITH: Any other questions from the Board?

689  
690 NEIL DUNN: To be honest with you Mr. Chairman. I would...I'm thinking I would like to go back...this case  
691 was here on April of 2015, and we went through this whole presentation. I would like to go back and review  
692 that and see what was discussed because it seems like a slight of hand to me that they are coming back now  
693 after they were given the 20 foot height and large signage and now they want to put electronics on it, so I  
694 would like to make a motion to continue the case until September 16<sup>th</sup>, so I can go back and go through the  
695 minutes. Please?

696  
697 MARK GROSS: Mr. Chairman, if I may on that aspect? Because at that time, and I believe this was a sign that  
698 was presented there was not question...the reason why it wasn't questioned was because it was our belief  
699 that it was allowed and we didn't even realize until Dan went down to get a sign permit, and submitted the  
700 paperwork for the sign permit. He told us "oh, that's considered an electronic reader board". So any of the  
701 presentations that were made on this sign have not changed. In other words, we didn't show it as  
702 changeable copy with letters. It was shown exactly like this. So there was not slight of hand, and...in terms of  
703 what was presented. It was our belief that this was going to be electronically lit which is allowed by your



704 ordinance, but the fact is, we were not aware it was going to be deemed an electronic reader board until the  
705 sign permit was applied for.

706  
707 JIM SMITH: A question. Was this picture that we see now shown to the Heritage Commission when you...?  
708

709 MARK GROSS: I wasn't at that meeting, but I think Dan was, and yes it was. Again...  
710

711 JIM SMITH: Well...  
712

713 MARK GROSS: ... it was under the assumption that this was an allowed sign because it's changeable copy,  
714 and under your ordinance changeable copy is allowed and can be changed electronically. It's in your  
715 definition.  
716

717 NEIL DUNN: I believe I have a motion on the table. I mean, I don't know if anybody wants to second that? I  
718 now we gave him a minute here, but it's...  
719

720 JACKIE BENARD: I'd like to second that because I'd like to take out that original...  
721

722 NEIL DUNN: Folder?  
723

724 JACKIE BENARD: ...what we had approved. I really would. I don't have any of that with me. I took it out, but  
725 I'd really like to know that this is.  
726

727 JIM SMITH: Okay, we have a motion to continue and it's been seconded.  
728

729 JACKIE BENARD: I have seconded it.  
730

731 JIM SMITH: Do we have...okay...all those in favor of continuing, and I'll have Bill vote this time.  
732

733 NEIL DUNN: Aye. You were doing a vote weren't you?  
734

735 JIM SMITH: All those in favor to continue this to...  
736

737 NEIL DUNN: September 16<sup>th</sup>, 2015.  
738

739 JIM SMITH: ...September 16<sup>th</sup>, 2015.  
740

741 THREE: Aye's  
742

743 JIM SMITH: I'll say Aye. Anyone in opposition? Jim?  
744

745 JIM TIRABASSI: No.  
746

747 JIM SMITH: So we're going to continue this so we can review the preceding case so we can compare what  
748 was presented then to what was presented tonight. Okay, with that, I'd like to take a ten minute break.  
749

750 **RESULTS:**

751  
752 **THE MOTION TO CONTINUE CASE NO. 8/19/2015-2 TO SEPTEMBER 16, 2015 WAS APPROVED, 5-0-0.**

753  
754 RESPECTFULLY SUBMITTED,  
755

756 

757 NEIL DUNN, ACTING CLERK

758  
759 TYPED AND TRANSCRIBED BY NICOLE DOOLAN, PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT  
760 SECRETARY.

761  
762 **APPROVED (SEPTEMBER 16, 2015) WITH A MOTION MADE BY J. TIRABASSI, SECONDED BY J. BENARD AND**  
763 **APPROVED 4-0-0.**  
764