

1 ZONING BOARD OF ADJUSTMENT
2 268B MAMMOTH ROAD
3 LONDONDERRY, NH 03053
4

5 DATE: AUGUST 19, 2009

6
7 CASE NO.: 8/19/2009-2

8
9 APPLICANT: JANA TRNOVSKY
10 356 MAMMOTH ROAD
11 LONDONDERRY, NH 03053
12

13 LOCATION: 356 MAMMOTH ROAD, 9-21-3, C-I

14
15 BOARD MEMBERS PRESENT: YVES STEGER, ACTING CHAIR
16 NEIL DUNN, VOTING MEMBER
17 JIM SMITH, VOTING MEMBER
18 MICHAEL GALLAGHER, VOTING ALTERNATE
19 MATTHEW NEUMAN, NON-VOTING ALTERNATE
20 LARRY O'SULLIVAN, CLERK
21

22 ALSO PRESENT: RICHARD CANUEL, SENIOR BUILDING INSPECTOR/
23 ZONING OFFICER
24

25 REQUEST: AREA VARIANCE TO ALLOW A FREESTANDING SIGN
26 TO BE LOCATED ONE FOOT FROM A PROPERTY LINE
27 WHERE A 15-FOOT SETBACK IS REQUIRED BY SECTION
28 3.11.6.4.3.1.1 FOR THE C-I ZONE.
29
30

31 PRESENTATION: Case no. 8/19/2009-2 was read into the record with three previous cases
32 listed.
33

34 YVES STEGER: If you could...are you Jana Trnovsky?

35
36 JANA TRNOVSKY: I am, yes.
37

38 YVES STEGER: Okay. If you could just provide a simple description of why you are
39 requesting...?
40

41 MATT NEUMAN: [inaudible]
42

43 YVES STEGER: Oh, I'm sorry, yes. We have four (4) voting members and this time, Mike will
44 be the voting alternate. Just explain in simple terms why you want to do this and then go
45 through the five (5) points of law which you need to meet for us to approve.
46

47 JANA TRNOVSKY: Okay, I'll just describe what I would like to do. I'm gonna have Cliff go
48 through the five (5) points, if you don't mind, because he's the one who prepared for that
49 specifically.
50

51 LARRY O'SULLIVAN: Would you introduce yourself first, please?
52

53 JANA TRNOVSKY: Sure, sir. Where do I live?
54

55 LARRY O'SULLIVAN: Yup.
56

57 JANA TRNOVSKY: Okay. I'm Jana Trnovsky and I live in Andover, Massachusetts. I had
58 purchased the dental office from Dr. Bookman back in September of '08, last year, and I've been
59 looking to replace his nonconforming sign with a more conforming sign. And also update,
60 obviously, his sign, because his sign said "Dr. Bookman." Right now, we just have an overlay
61 on it.
62

63 CLIFF CONTI: Okay, when we were asked to...
64

65 LARRY O'SULLIVAN: ...you to identify yourself, please?
66

67 CLIFF CONTI: I'm sorry. I'm Cliff Conti from New Hampshire Signs.
68

69 LARRY O'SULLIVAN: Where do you live?
70

71 CLIFF CONTI: I live in Nashua.
72

73 LARRY O'SULLIVAN: Thank you.
74

75 CLIFF CONTI: Sorry. But I've worked in Londonderry for fifteen (15) years and I enjoy
76 working in this community. Dr. Jana called us to, 'what can we do to fix up the sign,' and when
77 we looked at where it is and what's going on with that sign and talked to Richard, it's really not
78 on her property. It was put up there many years ago for Dr. Bookman. It's just been
79 maintained along the way. She's in a commercial zone and we looked at all the options. Dr.
80 Jana has really done a good job at bringing the property into a nice...the whole yard and all the
81 landscaping and everything has been upgraded and brought up to a nice, clean look and she
82 wanted something colonial to go with the neighborhood, even though she is in a C-I zone
83 herself. So we looked at, again, different options, she just wants an externally lighted sign on a
84 post so that it has a little bit more of a colonial nature, you can see in the drawing [see Exhibit
85 "B"]. There'll be some gold leaf on it. And I could read the points.
86

87 LARRY O'SULLIVAN: Could you describe that sign one more time? Did you say externally
88 lighted?
89
90 CLIFF CONTI: Externally lighted, yes.
91
92 LARRY O'SULLIVAN: Okay, is the existing...?
93
94 CLIFF CONTI: Down-lighted from the top.
95
96 LARRY O'SULLIVAN: Is the existing sign lighted?
97
98 CLIFF CONTI: No.
99
100 LARRY O'SULLIVAN: Thanks.
101
102 CLIFF CONTI: It's not lighted. There allowed an internally lighted sign on that property.
103 We're not looking for that. We're just looking for a down-lighted colonial sign. Under 3.11.6
104 and 4.3.1.1 [sic] of the zoning ordinance, we were denied because of the setback only, is really
105 what we need to ask for. Otherwise, we could get a permit for the sign. The property, if you
106 look at these different views [see Exhibits "A" and "C"], you'll see that the property is covered
107 by trees owned by the State. My view here that has sort of an enhanced version of the map, I
108 talked to Richard and we looked at the property, which is right in the middle of that stone wall.
109 So, those trees, most of the trees are on State property, so she can't cut the trees down to make
110 visibility, to be seen from the road. So there is just a few places that we can put on to make that
111 conforming. And again, she wants to bring this to a conforming place rather than just maintain
112 what's there and we, again, wanted to help her with that in a tasteful sign that's suitable to the
113 neighborhood. So, again, we have burgundies and matte blacks and gold leaf involved. Back
114 to my points. We're asking for a freestanding sign to be located one (1) foot from the property
115 line where otherwise a fifteen (15) foot setback is required in a C-I zone. I believe that the facts
116 supporting this request...the proposed use would not diminish the surrounding property
117 values because the sign would be otherwise conforming to code and in a sense, more
118 conforming and I'd say...I forgot to add in what's surrounding is a residential zone. So, it's
119 more conforming to a zone that's otherwise a residential nature around it. It's a house. Her
120 office is in a house that looks kind of like a house and again, to get her name where people can
121 actually see it, we're requesting just getting the sign up close. And if you look at the same thing,
122 the land just juts out in that one spot where we can just get the sign within...the small sign in
123 the one (1) post. We did one (1) post so that it wouldn't look as obtrusive as a two (2) post sign.
124 It kind of floats a little bit more, you know, architecturally? So I think it would be more
125 conforming to what's a residential nature around that commercial zone.
126
127 YVES STEGER: Currently, the red sign is actually on Town property.
128
129 JANA TRNOVSKY: Right.
130

131 CLIFF CONTI: It is. It is. She inherited...

132

133 YVES STEGER: And the property line is...

134

135 CLIFF CONTI: The stone wall.

136

137 YVES STEGER: ...is the stone wall?

138

139 CLIFF CONTI: The stone wall.

140

141 JANA TRNOVSKY: Yeah.

142

143 YVES STEGER: From the picture, I can see here, from the proposal, the foot of the sign is inside
144 the property but I have the impression that actually, the sign itself may be going above the...

145

146 CLIFF CONTI: It would not, sir. And I have...I've done this for a while and I actually have
147 several illustrations of this to show you. We have to conform. Richard won't let us put that sign
148 up unless we conform. We're not gonna set that big post unless...and then have him come back
149 and make us move the sign. We will do it within a foot of that property line, as we're
150 requesting. And we have to verify everything. We don't put concrete in steel and electric and
151 all this sort of thing in there, only to move it again and I don't think we have a case in
152 Londonderry where we've ever put the sign in the wrong place.

153

154 YVES STEGER: So, essentially, I'm trying to translate, you request that no part of the sign will
155 be closer to the limit of the property than one (1) foot?

156

157 CLIFF CONTI: Exactly.

158

159 YVES STEGER: The exact one, irrespective of the position of the rocks or whatever?

160

161 CLIFF CONTI: Yes. Yes, yeah. And there are boundary markers...

162

163 YVES STEGER: There are markers on the property, so people like him can verify, so,
164 essentially, you will need to verify clearly what are the limit of the property because your
165 request is to put it one (1) foot inside the property.

166

167 CLIFF CONTI: Yeah, and we will stake it out. We'll have Richard take a look. I'm sure you'll
168 be, right? You'll be able to come by and take a look after we stake it out?

169

170 RICHARD CANUEL: Absolutely.

171

172 CLIFF CONTI: We'll stake it all out. We do that all the time. We have to call Dig Safe and that
173 sort of thing, too.

174

175 YVES STEGER: Okay.

176

177 CLIFF CONTI: Anything else on that...?

178

179 YVES STEGER: So if you could go through the five (5) points of law?

180

181 CLIFF CONTI: That's what I...okay, I started with one (1) and two (2).

182

183 YVES STEGER: Okay.

184

185 CLIFF CONTI: Four-a (4.a)...a variance from Section 3.1.6 [sic], I read that, and 4.3.1.1 [sic], to
186 allow a freestanding sign to be located one (1) foot from the property line where otherwise
187 fifteen (15) foot setback is required in a C-I zone. That's the variance.

188

189 YVES STEGER: Maybe you did not understand. I'm asking to meet the five (5) points of law.

190

191 CLIFF CONTI: Oh, the five (5). I was reading the (a) and (b). I was at (b), so, I know what you
192 mean, sir. I'm sorry. I was at (b), so I started...I thought you wanted me to back up. Granting
193 the variance would not be contrary to the public interest...is that right? Where you want me?

194

195 YVES STEGER: That's the number (b), yes.

196

197 CLIFF CONTI: Okay, good. I want to make sure I covered the other ones. The sign, if located
198 as proposed, would not block any visibility to the road. It's not gonna block anyone's sight lines
199 or anything like that and is in the best location for this property. We tried to visualize...I drive
200 around and look at the property and make sure, 'what else can we do here?' And we looked at
201 it and if we put it near the edge of the driveway, people will actually be able to find her
202 property. And she has patients. They come and go and they need to be able to find the
203 property. If she takes it off what's now the State property and puts it fifteen (15) feet back, you
204 can see the line of the trees, nobody would be able to...in this picture here, the bottom right
205 corner [Exhibit "A"], nobody would be able to find the property. Dr. Bookman put it out there
206 because it was the only way he could be seen, I guess. I show it from both directions so that you
207 can see that even though the trees block it a little bit, she can say, "look for a sign on the left,"
208 and they'll see the sign. If they don't see the sign, you can't even see the driveway, so, you
209 know, it's very limited and it is a commercial zone. I do have a view right here and if we put a
210 very large sign, and this is not...I mean, I really tried to look at some options. Right on the back
211 of the property, way over here, behind that parking lot right in here, you can see through the
212 trees for a moment, you can see that space and you could see a big sign but it would have to be
213 really big because it would be all the way across the property to do that. So we tried to look at
214 all the options that we have and obviously, we don't want to do anything like that, you know?
215 And this will keep this, really, away from any of the other property and you have all...the State
216 has all those trees in there. So, let me get back to the points if I might. So the sign, if located as
217 proposed, would not block any visibility. It's not gonna be in anyone's sight line or an
218 obstruction in any way. And it will allow some proper way finding, people to be able to find...I

219 talked to Dr. Jana when they mentioned the ambulance at the other...the hearing just prior to us
220 [case no, 8/19/2009-1]. She has some medical emergencies, people faint, she was just
221 mentioning to me and there is a same kind of a situation where people have to be able to find
222 medical people and patients, suppliers and this sort of thing, to this and again, if she goes to
223 conforming, which is what she wants to do. If you look at this picture right here, you can see
224 where the stone wall is and you can see where the existing sign is again, see how it drops down
225 towards the driveway? That's where it's dropping right here. So the landscape drops way off,
226 so the sign would be, a foot back from the property, which puts the post right on the edge of the
227 parking lot, right there, and you can just fit that sign in there...within that, the one (1) foot that
228 we're asking. The special conditions exist that such literal enforcement of the ordinance results
229 in unnecessary hardship. An area variance is needed to enable the applicant's proposed use of
230 the property, given the following conditions of the property. Landscaping on State property
231 blocked the entrance, all the way up and down the road. There's actually a curve there which is
232 really hard to show. But you know that there's a little curve right in there. And so, all those big
233 trees do block and again, I've illustrated that it will help. We're trying to get the best that we
234 can and still be reasonable with the size and the setback with the one (1) foot. So, landscaping
235 would block if any sign was located fifteen (15) foot back. It would be useless. You just
236 couldn't find the place. And again, medical and suppliers, customers. The benefit sought by
237 the applicant cannot be achieved by some other reasonably feasible method for the applicant to
238 pursue because I feel this is a reasonable, well designed colonial sign, externally illuminated.
239 Other more commercially designed signs would not fit well in this surrounding, so again, the
240 approach is, hey, it's a neighborhood. It's a commercial spot in a neighborhood. She didn't ask
241 us, "I want the biggest, brightest, boldest thing that we can do." She said, "I want something
242 that's reasonable that would go in this neighborhood." And we did discuss a lot of options in
243 here and just so people can find it. She has a nice presence as a doctor. So, I think that the
244 benefit can't be achieved in any other way due to the landscape issues, due to the road
245 conditions and I think granting (D), granting the variance would do substantial justice because
246 it would allow Jana, as a new property owner, to bring the sign into conformance in a
247 reasonable way with reference to the surrounding properties. And this is not contrary to the
248 spirit of the ordinance because this is a C-I zone, but would maintain a colonial appearance and
249 be more conforming, I want to add, to otherwise rural conditions.

250
251 YVES STEGER: Thank you. People have questions?

252
253 LARRY O'SULLIVAN: Sure. Don't you know it? The significant issue that we're looking at in
254 the way of making me buy into this is lighting.

255
256 MICHAEL GALLAGHER: Yeah...

257
258 LARRY O'SULLIVAN: Right now, there's nothing lit on that road, period. Hasn't been. I've
259 lived here for twenty five (25) years and have never lost Dr. Bookman yet. However, the issue is
260 gonna be, can you see it when it's raised up that high still? Because that's what you've done is
261 you've raised that sign a good few feet anyway from the ground and from the level that Dr.
262 Bookman's Family Dentistry sign is. That may require that you need a light in order to see it.

263 However, if you dropped it a couple of feet, you wouldn't have that issue. So, the only issue
264 that I have with it is the actual placement and the lighting.
265
266 CLIFF CONTI: Well...
267
268 LARRY O'SULLIVAN: How far from the road, could I ask, is that sign?
269
270 JANA TRNOVSKY: Right now?
271
272 LARRY O'SULLIVAN: Your proposed sign, from the road.
273
274 CLIFF CONTI: Well, that's gonna put it...
275
276 LARRY O'SULLIVAN: You say it's a foot from the property line which is great but...
277
278 CLIFF CONTI: It's gonna put it a good twenty five (25) feet, really, from the edge of the...right?
279
280 RICHARD CANUEL: Whatever that...
281
282 CLIFF CONTI: Yeah, I mean...
283
284 RICHARD CANUEL: ...happens to be. I don't know that it's...
285
286 CLIFF CONTI: Yeah, it's...
287
288 LARRY O'SULLIVAN: Do you have any type of a drawing with measurements or anything like
289 that? I mean, this is what I'm looking at here. Edge of the road to the sign.
290
291 CLIFF CONTI: Well, that's gonna be twenty five (25), thirty (30) feet back by that time. This
292 is...
293
294 LARRY O'SULLIVAN: Okay, we're gonna have to be pretty specific. 'Cause we don't want to
295 get caught in one of those...it's a State road.
296
297 CLIFF CONTI: Well, we're putting it on the property and all that green grass area there...I
298 didn't think that was gonna be an issue because we're putting it on the property line. All that
299 green grass area is...
300
301 YVES STEGER: How wide is a car typically? You see there's a car?
302
303 LARRY O'SULLIVAN: Yeah.
304
305 YVES STEGER: What is the typical width of a car?
306

307 LARRY O'SULLIVAN: Six (6) foot.
308
309 NEIL DUNN: Six (6) foot.
310
311 YVES STEGER: Six (6) foot? So that is at least...
312
313 LARRY O'SULLIVAN: So we're eighteen (18) feet.
314
315 YVES STEGER: Yup.
316
317 LARRY O'SULLIVAN: Ballpark? Okay, we'll go with eighteen (18) feet. Thank you.
318
319 CLIFF CONTI: Oh, it's more than eighteen (18).
320
321 JANA TRNOVSKY: It's at least. It's more than that.
322
323 CLIFF CONTI: Oh, it's more than that.
324
325 JANA TRNOVSKY: It's at least twenty (20) feet. If not more.
326
327 LARRY O'SULLIVAN: So then if we put a minimum of eighteen (18), we'll be happy.
328
329 YVES STEGER: So, I have a question. Are lighted signs authorized in a C-I zone?
330
331 LARRY O'SULLIVAN: Sure.
332
333 CLIFF CONTI: Yes.
334
335 LARRY O'SULLIVAN: Absolutely.
336
337 CLIFF CONTI: Internally lighted...
338
339 RICHARD CANUEL: It can either be internally or externally illuminated.
340
341 CLIFF CONTI: ...exposed neon, you can put exposed neon chrome...
342
343 LARRY O'SULLIVAN: Right, but he's trying to keep in character of the residential area. And a
344 lighted sign...
345
346 CLIFF CONTI: So rather than do an internally lighted colonial sign, which I was just actually
347 granted a variance for in a very similar zone last night, she's not looking for any of that. Just a
348 couple down lights. We were discussing lighting but it would be a couple down lights. We'd
349 be able to put the wiring inside the pole to hide the wiring, so...She wanted it to have a wrought

350 iron look. That's why we have the matte black finish square pole. But we'd be able to run the
351 wiring up inside and just a couple, you know, down lights. We want down lighting.

352
353 YVES STEGER: So what are your hours of operation>

354
355 JANA TRNOVSKY: Actually, from nine (9) 'til six (6), which, actually, brings me, if I may,
356 just...Mr. O'Sullivan, I understand you probably lived in Londonderry for most of your life but
357 a lot of my friends who come, from maybe even out of town, they've driven by my sign a few
358 times before they found it and actually, I, myself, have driven by before I knew where it was.
359 So, all of my new patients and especially in wintertime, it gets dark pretty quickly, so if I'm
360 open, a lot of them miss them. I think it's a major safety issue as well because that road, there is
361 a lot of high speed traffic that goes both ways and if people don't see the sign way ahead and as
362 it is, I'm moving it way back in, it'll be hard for them to see, so if it's illuminated, it'll be a little
363 easier and more safe.

364
365 JIM SMITH: Would the sign be illuminated when you are open? Or beyond that time frame?

366
367 JANA TRNOVSKY: What do you mean?

368
369 JIM SMITH: In other words, your hours of operation...

370
371 JANA TRNOVSKY: You mean Saturday and Sunday? Will it be lit?

372
373 NEIL DUNN: At midnight?

374
375 JANA TRNOVSKY: I was gonna put it on a timer so it would be automatically be turned on
376 at...

377
378 JIM SMITH: Okay, so it would be illuminated during the hours of operation.

379
380 JANA TRNOVSKY: Of operation.

381
382 JIM SMITH: Yeah.

383
384 JANA TRNOVSKY: Right.

385
386 JIM SMITH: Okay. I have a question for you on (C.2). I don't think you really addressed that
387 one very well. It's asking if there's any other reasonable methods that you could use. You
388 really didn't...you talked about how the sign was...

389
390 CLIFF CONTI: Well, see, unfortunately, what I'm trying to...I'm a designer, okay? And if you
391 wanna say 'reasonable,' we could put a big, lighted sign right, fifteen (15) foot back, a sixty five
392 (65) square foot lighted sign. But that's not, to me, reasonable, see? Now, that, to me, it's not
393 reasonable in this situation to use something like that. So, what...it was hard to fill this one in

394 because it was...what are you gonna consider reasonable? And what am I considering? As a
395 designer, the height of this, if you put this lower on a single pole, it looks really funny that way,
396 especially where the landscape drops off. The drawing that I show there shows it. I was able to
397 get the photo to show it all the way down to the ground but it won't appear that height. But if
398 you put a single post like that and you put that size sign, visually, it has to look the way a flag is
399 designed. A flag has to be a certain height from the ground or it looks funny. So, visually, we
400 were trying to make that size sign look and have enough daylight around it. It's not to be any
401 kind of a beacon or anything. It's just visually to be attractive. Now, we have other, in a sense,
402 options that I don't think are reasonable for this property. So what we're saying is we're
403 appealing to you all to allow us to put something that is actually more reasonable...am I making
404 sense here?

405
406 YVES STEGER: So, for example, one of the things...is there another location where you could
407 put it that is on the property. If I look at your drawings that you put there [see Exhibit "D"],
408 there are a lot of trees but on that drawings that you have, at the bottom, you know, left bottom,
409 there is a place where there are no trees. So, would that be a location where you could actually
410 put it further away from the property line? It would not be exactly on the driveway but at least
411 it would be there. I'm looking at...

412
413 CLIFF CONTI: Yeah, I have this...

414
415 YVES STEGER: No, no. I'm talking about this thing, here.

416
417 JIM SMITH: The sketch of the lot.

418
419 YVES STEGER: The sketch.

420
421 NEIL DUNN: Yeah, that's probably not as accurate.

422
423 JANA TRNOVSKY: This one.

424
425 CLIFF CONTI: Oh, that doesn't just show all the trees.

426
427 YVES STEGER: Oh, okay.

428
429 NEIL DUNN: The sketch.

430
431 CLIFF CONTI: See the tree line right here?

432
433 JIM SMITH: Okay, you need to get on a mic.

434
435 YVES STEGER: Yes.

436
437 CLIFF CONTI: Oh, I'm sorry.

438
439 JIM SMITH: You could probably use the potable one.
440
441 CLIFF CONTI: Okay, oh, alright.
442
443 JIM SMITH: You can take it out of the...
444
445 YVES STEGER: Yeah, you can take it.
446
447 CLIFF CONTI: Okay...
448
449 JIM SMITH: You know, just talk...
450
451 LARRY O'SULLIVAN: It's for television, it's not for us.
452
453 YVES STEGER: Don't worry.
454
455 CLIFF CONTI: Oh, okay. Alright, well this is another, I think, just to be sure...
456
457 YVES STEGER: Well, essentially, what you need to show is that there are no other places where
458 you could have put it where you could be further away from the property line because of the
459 trees. You mentioned the trees, so the (C.1) you are covering but you are not, you know, your
460 discussion about just the fact that it has to be colonial is not relevant to us.
461
462 CLIFF CONTI: Understood. We could put a big, lighted sign right here and you'd see it,
463 maybe, through the trees at one spot. But to literally drive down and see it, does that make
464 sense? To just drive down the road and see the sign fifteen (15) foot back just puts it in the
465 middle of the lawn somewhere. And we're only asking for fourteen (14) feet. We're asking for
466 a fourteen (14) foot difference from what we could do because of, we think, it's gonna be the
467 best approach.
468
469 YVES STEGER: Yeah.
470
471 CLIFF CONTI: We really do. We think it's...
472
473 YVES STEGER: See? There are trees all over. It was not clear from this.
474
475 CLIFF CONTI: Yeah, we tried. We took a million pictures and tried to illustrate the best we
476 could to show...You can see this here, this version right here. You have a copy of this.
477
478 YVES STEGER: That's the one. Yup. Yeah, okay.
479

480 CLIFF CONTI: And you can see, it's just totally blocked by trees, even in the winter. It would
481 be too far back with all that wood in the way, to...otherwise, we would have had the sign up by
482 now. See, it would have been easy. But we'd rather do it right, actually.
483
484 LARRY O'SULLIVAN: Can I get any of the specs on this? Do we have any specs, what size...?
485
486 MICHAEL GALLAGHER: There is...
487
488 LARRY O'SULLIVAN: Where is that?
489
490 MICHAEL GALLAGHER: I think at the bottom here, I thought I saw some.
491
492 JIM SMITH: How tall is the sign?
493
494 YVES STEGER: The sign?
495
496 CLIFF CONTI: Or the overall...?
497
498 YVES STEGER: Yeah, here it is. Total height...
499
500 MATT NEUMAN: The actual sign itself? Or the post?
501
502 JIM SMITH: Yeah, that's what I'm looking for.
503
504 MATT NEUMAN: For what? The post? It looks like six (6) feet, according to the...?
505
506 YVES STEGER: See, this one here...
507
508 [overlapping comments].
509
510 MICHAEL GALLAGHER: The full height of the post.
511
512 MATT NEUMAN: Oh, I thought it [inaudible] six (6) foot.
513
514 JIM SMITH: No, six (6) by six (6) post. The square post.
515
516 YVES STEGER: Oh, six (6) inch by six (6) inch?
517
518 MICHAEL GALLAGHER: If that...
519
520 JIM SMITH: Yeah.
521
522 MICHAEL GALLAGHER: If that met all the setbacks, would it be able to be lighted in that
523 area? It could be lit?

524
525 JIM SMITH: Well, if it's down lit, you're not...
526
527 MICHAEL GALLAGHER: Right. I was just...
528
529 JIM SMITH: I don't think it will affect the traffic that much. You know, if the [inaudible], that
530 would be different.
531
532 MICHAEL GALLAGHER: Yeah, I was just wondering if it met all the setbacks and the sizes,
533 could they have a lit sign? A sign that was lighted.
534
535 JIM SMITH: Yeah. Yes. Yes.
536
537 MICHAEL GALLAGHER: Okay.
538
539 LARRY O'SULLIVAN: Yeah, this sign, if we approved it, could be internally lit.
540
541 MICHAEL GALLAGHER: Yup.
542
543 YVES STEGER: Oh, six (6) inch by six (6) inch?
544
545 MICHAEL GALLAGHER: If that...
546
547 JIM SMITH: Yeah.
548
549 MICHAEL GALLAGHER: If that met all the setbacks, would it be able to be lighted in that
550 area? It could be lit?
551
552 JIM SMITH: Well, if it's down lit, you're not...
553
554 MICHAEL GALLAGHER: Right. I was just...
555
556 JIM SMITH: I don't think it will affect the traffic that much. You know, if the [inaudible], that
557 would be different.
558
559 MICHAEL GALLAGHER: Yeah, I was just wondering if it met all the setbacks and the sizes,
560 could they have a lit sign? A sign that was lighted.
561
562 JIM SMITH: Yeah. Yes. Yes.
563
564 MICHAEL GALLAGHER: Okay.
565
566 LARRY O'SULLIVAN: Yeah, this sign, if we approved it, could be internally lit.

567
568 MICHAEL GALLAGHER: Yup.
569
570 YVES STEGER: Yeah but what difference does it make? I mean...
571
572 MICHAEL GALLAGHER: Yeah.
573
574 YVES STEGER: I'm not an artist. So, it's a five (5) foot?
575
576 CLIFF CONTI: Could I clarify the height issue?
577
578 LARRY O'SULLIVAN: Sure. We want specs.
579
580 JIM SMITH: Please. How tall is it?
581
582 CLIFF CONTI: Well, it would be a maximum ten (10) foot. The sign itself would be ten (10)
583 foot.
584
585 YVES STEGER: How tall is the pole?
586
587 CLIFF CONTI: Well, the pole is gonna be another two (2) foot. A foot and a half, two (2) feet
588 over that.
589
590 LARRY O'SULLIVAN: So it's twelve (12) feet tall. The pole is...
591
592 CLIFF CONTI: Well, the sign can be ten (10) feet high. So we will maintain a ten (10) foot
593 height.
594
595 LARRY O'SULLIVAN: Okay and the diagram that we show [see Exhibit "E"]...I can't
596 read...how wide is it? Is three point four (3.4)?
597
598 CLIFF CONTI: Five (5) foot. Five (5) foot wide.
599
600 LARRY O'SULLIVAN: And how high is it?
601
602 CLIFF CONTI: Three (3), four (4), five (5) foot, nine (9) inches. And that includes all the
603 decoration and we have to put the address on there, so we include the colonial top to put the
604 address on there.
605
606 YVES STEGER: Yeah, and you show...
607
608 LARRY O'SULLIVAN: Okay, so it's five (5) feet, nine (9) inches tall.
609
610 CLIFF CONTI: Yes.

611
612 LARRY O'SULLIVAN: I'm just talking about the signage itself.
613
614 CLIFF CONTI: Absolutely.
615
616 LARRY O'SULLIVAN: And it's five (5) feet wide.
617
618 CLIFF CONTI: Five (5) feet wide.
619
620 LARRY O'SULLIVAN: And the existing sign, "356 Londonderry Family Dentistry" is what?
621
622 CLIFF CONTI: Let's see...I think it's three (3) by four (4).
623
624 LARRY O'SULLIVAN: So it's around three (3) by four (4)?
625
626 JANA TRNOVSKY: Yeah.
627
628 CLIFF CONTI: Yes, about three (3) by four (4).
629
630 LARRY O'SULLIVAN: So you're doubling the size of the sign? From twelve (12) feet to more
631 than twenty five (25) square feet?
632
633 CLIFF CONTI: But we're going under the sixty five (65) square feet that we are allowed.
634
635 LARRY O'SULLIVAN: I'm asking...this is a nonconforming sign so that's why I'm asking the
636 question.
637
638 CLIFF CONTI: Oh, I'm sorry. Yeah. I mean, but...
639
640 LARRY O'SULLIVAN: You can go by code or you can go against, you know, what regulations
641 are and we're trying to do a compromise, right? You wanna compromise a little, I'd like to
642 compromise a little. Big signs are a no-no in my book. Smaller signs are better, so what you're
643 coming in with is reasonable. Therefore, let's go to the next thing.
644
645 CLIFF CONTI: Okay, good. No, I, you know, I'm just trying to figure that...we were ignoring
646 Dr. Bookman's because that was nonconforming. We just wanna conform.
647
648 LARRY O'SULLIVAN: The issue for me was, and I'm sure everybody who's driven by there a
649 gazillion times is, what's the perspective that we're gonna get on it?
650
651 CLIFF CONTI: Sure.
652
653 LARRY O'SULLIVAN: So, it's gonna double the size and you're gonna light it. Those are the
654 significant differences.

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JIM SMITH: I would like to ask a question to Richard. How would you interpret the sign height under 3.11.5.3.2?

RICHARD CANUEL: Measured from the grade to the top most portion of the sign component itself. I wouldn't necessarily measure the height of the tip of that pole. I would measure the sign component itself.

JIM SMITH: Okay. Okay, just so we have everybody...

NEIL DUNN: What's eleven0five (11.5), is that...?

MICHAEL GALLAGHER: So, the top of the sign, ten (10) feet, is what you're saying, Richard?

RICHARD CANUEL: Yup.

JIM SMITH: Yup.

MICHAEL GALLAGHER: And the pole, if it's another foot, a foot and a half, whatever.

YVES STEGER: So, it's gonna be a few feet lower because it's already on the down side.

MICHAEL GALLAGHER: Yes.

YVES STEGER: Okay. Any more questions from the Board? Please don't be bashful. I'm not going to ask the audience because there is none left. So we can go back to the Board for any more questions. Sure? Alright, thank you very much. We're gonna deliberate immediately.

JANA TRNOVSKY: Thank you.

CLIFF CONTI: Thank you very much.

DELIBERATIONS:

YVES STEGER: Do we want to go through the points of law first?

NEIL DUNN: Never hurts.

YVES STEGER: Okay. Opinions about impact on the property values.

LARRY O'SULLIVAN: None.

YVES STEGER: None. All agreed?

699 MICHAEL GALLAGHER: Yup.
700
701 YVES STEGER: Not contrary to the public interest?
702
703 LARRY O'SULLIVAN: No, it's on the edge of their property as opposed to the State's, so, I
704 don't think there's an issue there.
705
706 YVES STEGER: No issues.
707
708 LARRY O'SULLIVAN: The issue would be how close are they from the edge of the road. As far
709 as I'm concerned, then that's the only issue and I think we should place that in whatever we do
710 here in the way of so many feet from the road and a minimum of so many feet is...it fits the bill.
711
712 JIM SMITH: I think all we have to say is one (1) foot within his property line.
713
714 YVES STEGER: Which is what they requested.
715
716 LARRY O'SULLIVAN: Okay, so if he doesn't have a pole there, a post, he's gonna have to have
717 it surveyed.
718
719 YVES STEGER: No, no, no, no, no. We can define that as "no part of the sign can be closer than
720 one (1) foot from the property line."
721
722 LARRY O'SULLIVAN: Okay.
723
724 YVES STEGER: Then it doesn't matter where they put the post. They can have a post and a
725 very long hanging things. You know? I don't care. But that means that no part of the sign can
726 be closer than one (1) foot. I'm quite sure people will remember that. Okay? Then, special
727 conditions of the property. It was mentioned that the line of tree was blocking the views.
728
729 LARRY O'SULLIVAN: I had the impression that people cut those trees or the branches on those
730 trees regularly. I've seen the people who live right next to this go out there and chop down
731 some branches and rip up some of the bushes that were growing there. That's mostly a safety
732 thing but they were doing it. It wasn't the State. So...
733
734 YVES STEGER: You mean they were touching the Town's trees?
735
736 LARRY O'SULLIVAN: It's not the Town's. It's the State.
737
738 JIM SMITH: It's a State road.
739
740 YVES STEGER: State, oh, okay.
741
742 JIM SMITH: It's a state road.

743
744 YVES STEGER: That's right. It's a State road.
745
746 NEIL DUNN: I think that the fact that it is State trees and property, that it does kind of add a
747 special condition...
748
749 YVES STEGER: Yup.
750
751 NEIL DUNN: ...to the property in a sense that...well, no, only that if you're trying to get a sign
752 and it's a commercial rated building, they could put a sixty (60) or fifty (50) square foot sign up
753 on the back. It kind of adds to the commercial properties...
754
755 LARRY O'SULLIVAN: Okay.
756
757 NEIL DUNN: ...and their ability to provide the signage that they're allowed.
758
759 LARRY O'SULLIVAN: Mm-hmm.
760
761 MICHAEL GALLAGHER: It's definitely an improvement. That sign's, without a doubt, an
762 improvement.
763
764 YVES STEGER: Yes.
765
766 MICHAEL GALLAGHER: You know, to your...
767
768 NEIL DUNN: So I mean, it is kind of a stretch to say 'special condition' but when you're
769 looking at a commercial property where the signage would...
770
771 LARRY O'SULLIVAN: The circumstances with the slope the way it is, I agree. I don't disagree
772 with that.
773
774 NEIL DUNN: Yeah, I guess that's [inaudible].
775
776 YVES STEGER: And (C.2), it cannot be achieved by any other reasonable method. There are no
777 signs that are...
778
779 LARRY O'SULLIVAN: No other space for them to put it really.
780
781 YVES STEGER: Yeah. So actually, it's probably the only place where they can put it. The only
782 thing that we can argue is how far.
783
784 LARRY O'SULLIVAN: Mm-hmm.
785
786 YVES STEGER: Or how lighted or whatever, so...

787
788 LARRY O'SULLIVAN: How long lighted.
789
790 YVES STEGER: Granted, the variance would do substantial justice. Well, actually, I can see two
791 (2) of those things, you know, it allows to find the property, which is reasonable. Actually, it
792 makes it safer because it allows the people to turn without having to stop in the middle of the
793 road and it makes it conforming. I think it meets that one, too.
794
795 LARRY O'SULLIVAN: It's more conforming, anyway.
796
797 YVES STEGER: More conforming. Thank you.
798
799 NEIL DUNN: Once it has a variance it is.
800
801 YVES STEGER: And then not contrary, I think it is. Within a C-I zone, that's pretty normal. So,
802 the five (5) points of law, I think, are met. Does anybody disagree with this? No? Okay. So, do
803 we want to...besides the fact that no part of the sign can be closer to the property limit, the other
804 that we mentioned, that the lights would not be on...will be only on during the hours of
805 operation?
806
807 LARRY O'SULLIVAN: Mm-hmm.
808
809 YVES STEGER: That sounds a reasonable restriction. Any other?
810
811 LARRY O'SULLIVAN: I would say, you know, an hour before or an hour after and that's it.
812 'Cause you have...I see people leaving there at six thirty (6:30), seven (7:00) o'clock and...
813
814 YVES STEGER: Yeah, okay.
815
816 JIM SMITH: Yup.
817
818 LARRY O'SULLIVAN: Because the last thing we wanna do is have it so that...
819
820 YVES STEGER: Yeah, it cannot be on at all time, in the middle of the night, so...
821
822 LARRY O'SULLIVAN: You don't want it on at nine (9:00) o'clock.
823
824 YVES STEGER: So within hours of operation, plus or minus one (1) hour. Something like that?
825
826 MICHAEL GALLAGHER: That sounds good.
827
828 YVES STEGER: Sounds good?
829
830 LARRY O'SULLIVAN: So, set the timer for six thirty (6:30).

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YVES STEGER: Anything else? That's pretty good. Is somebody ready and willing to make a motion?

LARRY O'SULLIVAN: I'll make the motion and incorporate the restrictions as presented to approve the case 8/19/2009-2 with those restrictions.

YVES STEGER: Somebody wants to second?

MICHAEL GALLAGHER: I'll second.

YVES STEGER: Okay, so we have a motion to approve by Larry, seconded by Mike. Any further discussion? Remember, we have put two (2) restrictions, okay? No part of the sign can be closer than one (1) foot from the property line and the lighting cannot be...must be on only during hours of operation, plus or minus one (1) hour. Anything else? All in favor, say 'aye.'

LARRY O'SULLIVAN: Aye.

JIM SMITH: Aye.

NEIL DUNN: Aye.

MICHAEL GALLAGHER: Aye.

YVES STEGER: Aye. Those against?

[no response in opposition].

RESULT: THE MOTION TO GRANT CASE NO. 8/19/2009-2 WITH RESTRICTIONS WAS APPROVED, 5-0-0.

RESPECTFULLY SUBMITTED,

LARRY O'SULLIVAN, CLERK
TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

APPROVED SEPTEMBER 16, 2009 WITH A MOTION MADE BY LARRY O'SULLIVAN, SECONDED BY JIM SMITH AND APPROVED 5-0-0.