

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

DATE: MARCH 19, 2008

CASE NO.: 3/19/2008-3

APPLICANT: FORTY BUTTRICK ROAD, LLC
DICK ANAGNOST
33 SOUTH COMMERCIAL STREET
MANCHESTER, NH 03101

LOCATION: 40 BUTTRICK ROAD, 6-73, C-III

BOARD MEMBERS PRESENT: MARK OFFICER, ACTING CHAIR
YVES STEGER, VOTING ALTERNATE
BARBARA DILORENZO, VOTING ALTERNATE
LARRY O'SULLIVAN, CLERK

REQUEST: AREA VARIANCE TO ALLOW A TOTAL OF 49.5 SQUARE FEET OF WALL SIGNAGE (I.E. TWO WALL SIGNS OF 24.75 SQUARE FEET EACH) WHERE A MAXIMUM OF 40 SQUARE FEET IS ALLOWED.

PRESENTATION: CASE NO. 3/19/2008-3 WAS READ INTO THE RECORD WITH THREE PREVIOUS CASES LISTED.

MARK OFFICER: Who will presenting for the applicant?

CATHY CHAMPAGNE: My name is Cathy Champagne, I'm here on behalf of Forty Buttrick Road, LLC.

LARRY O'SULLIVAN: She's on the list.

MARK OFFICER: Okay. Before we get started, has everybody else been able to open that PDF? Ah, here it goes.

YVES STEGER: Yes.

MARK OFFICER: This PC is very slow.

YVES STEGER: Yeah, they all are.

MARK OFFICER: Yeah, okay, I'm sorry, go ahead.

CATHY CHAMPAGNE: I think you have drawings in front of you, they look like this [see Exhibits A and B].

MARK OFFICER: Yes.

CATHY CHAMPAGNE: Okay. This request is being made to replace the signs that are currently installed on the tower and I think you have some layouts showing photographs of the existing signs as they currently are installed on the building and I do have some photographs that were taken recently. And it's a view from the road that gives a little bit of a better perspective and...

MARK OFFICER: The pictures that we were handed, this is the proposed, correct?

JAYE TROTTIER: Yeah.

YVES STEGER: Mm-hmm.

MARK OFFICER: Okay.

CATHY CHAMPAGNE: Okay. So, I do have some photographs showing, since there is already a sign in place that we're proposing taking down and replacing with a slightly larger sign, I thought it would be helpful to show what's already there.

MARK OFFICER: Okay.

CATHY CHAMPAGNE: And the reason this came up was that The Elliot asked us to install a sign, actually two (2) signs here. We split the square footage up on both sides of the tower that complied with the code, which we did. And we thought at the time that the signs would be visible and legible and they're not, much to everybody's disappointment, from the road. They're just not very clear and not very legible. So we came up with a proposal to increase it to a bare minimum. We didn't increase it any larger than we absolutely had to to make those letters more visible and more legible from the road and that's what you see in front of you. And if you want me to pass these out...

MARK OFFICER: Sure [see Exhibits C and D]. Thank you.

LARRY O'SULLIVAN: What's the difference between what you just handed us and what we originally had?

MARK OFFICER: This is existing.

YVES STEGER: It's much smaller.

CATHY CHAMPAGNE: Yeah, both of those show existing.

BARBARA DILORENZO: So, this is existing now.

CATHY CHAMPAGNE: That's existing and so is this. It just give you a view from the road.

YVES STEGER: What was the size of the signs as it is today? They're exactly the limit?

CATHY CHAMPAGNE: It is exactly the square footage allowed by code, which was forty (40) square feet total, which would be twenty (20) square feet per sign.

YVES STEGER: Okay.

MARK OFFICER: Meaning per side, so per side it's twenty (20) each?

CATHY CHAMPAGNE: They're actually identical but...

MARK OFFICER: Okay.

CATHY CHAMPAGNE: They're identical in size per tower.

MARK OFFICER: Okay.

CATHY CHAMPAGNE: And we're only proposing a change in size. The color, everything would be absolutely identical. It would just be a change in the size. Increasing it from twenty (20) to twenty four point seven five (24.75), so the increase is fairly modest.

YVES STEGER: Twenty (20) percent.

CATHY CHAMPAGNE: I'm sorry?

YVES STEGER: Twenty (20) percent.

MARK OFFICER: Okay. Could you walk through the five (5) points of law, please?

CATHY CHAMPAGNE: Absolutely. The proposed use would not diminish the surrounding property values because clear and legible signage is in keeping with the surrounding area and the proposed signs, although larger in size than the existing set of letters, will be easier to read and will keep in the size and scale of the building and the property as a whole. The overall size of these signs fit with the character of the building and don't diminish the character of the surroundings. Granting the variance would not be contrary to the public interest because clear, visible, appropriate and legible way-finding devices are inherently in the public interest. These signs serve to communicate the services of this facility better than the existing signs. The existing signs, which are exactly to code, appear small when compared to the size, scope and scale of the building and the property as a whole and the public interest would be better served if the signs had better legibility and visibility from the distance they are viewed. An area variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property. One (1), the height and setback of the tower from the road make these signs an important component to properly identify The Elliot. These signs, although sized exactly to code, don't adequately and legibly identify this facility. Further, it wasn't evident these small signs would be so ineffective, given the high slope and setback of the land. These signs simply don't carry the message and the larger proposed signs are required to offset the distance

and grade change the smaller signs don't compensate for. The benefit sought by the applicant can't be achieved by some other method reasonably feasible for the applicant to pursue other than an area variance because the sign code, again, is inherently a "one size fits most" rule. And there are exceptions where a facility uniquely needs more visibility. Elliot Health Care has several services housed in and on this property and effective, clear and legible signs are the best way to efficiently direct the public to where these services are located. There is no reasonable or feasible substitute for the relief we are seeking by installing appropriately larger size signs as shown on the submitted drawings. Granting the variance would do substantial justice because ultimately, the public will be served best by the improved signage and without an alternative to communicate and direct the public to the proper locations on this property, substantial justice will be served by granting a reasonable, conservative and appropriate area variance for new signage to replace the letters that lack the size and legibility to do the job. The use is not contrary to the spirit of the ordinance because inherent in all sign codes and ordinances is the idea to serve the public interest. It can't be deemed contrary to the spirit of an ordinance to ask for relief where a "one size fits most" doesn't provide a reasonable alternative, especially when the original mandate was tested but failed, as was done in this case. The Elliot didn't just think the smaller signs wouldn't work, they actually tried it and to their dismay, judged it to be deficient only after having exhausted the alternatives allowed by code, hereby asking for this variance.

MARK OFFICER: Okay. Thank you very much. Any questions from the Board?

LARRY O'SULLIVAN: Mm-hmm.

MARK OFFICER: Larry?

LARRY O'SULLIVAN: We'll start with the last thing you said so it's fresh.

CATHY CHAMPAGNE: Sure.

LARRY O'SULLIVAN: You said 'it was judged to be deficient.'

CATHY CHAMPAGNE: Mm-hmm.

LARRY O'SULLIVAN: Has anybody not recognized that Elliot? The building and words "The Elliot"?

CATHY CHAMPAGNE: I have absolutely no idea if there's people out there who don't know that if it says "The Elliot" or not but I know that if you're traveling on that road, I can tell you, those letters don't look very clear. They don't look legible. That letter style is actually bolder than it was originally presented to us but even just looking at those photographs, and there's not a lot of letters. I mean, I was actually relieved that they didn't have a longer name because that would have just made their letters even smaller. But for nine (9) letters and a logo, just personally and viewing it from the road, I don't think it's a very visible or very clear image from certain distances on the road. I think you literally have to be on top of it before you look and it's absolutely clear, it says "The Elliot."

LARRY O'SULLIVAN: Okay. Did you ever see that building that's on the opposite side of that? Have you ever taken a look on the opposite side where there's a very long building that also provides medical services that's about the third the size on the opposite side of the street?

CATHY CHAMPAGNE: I'm not sure which one you're talking about.

LARRY O'SULLIVAN: There's co-joined services from doctor's offices and chiropractors and so forth.

CATHY CHAMPAGNE: The one across the street?

LARRY O'SULLIVAN: Mm-hmm.

CATHY CHAMPAGNE: Yup, I have seen it.

LARRY O'SULLIVAN: Okay. And those signs, for the twenty four (24) years that I've been here, are code or smaller and work and they are also sufficiently away from the road as that building that you're talking about is, so, to me, the point that you need to make about 'deficient'...

CATHY CHAMPAGNE: Mm-hmm.

LARRY O'SULLIVAN: ...and 'improved' signage, you need to make pretty strong because a variance that serves the public interest has to be shown to serve the public interest. Right now I see that building and I can't imagine anyone driving within sight of that building doesn't know what that is.

CATHY CHAMPAGNE: Well, I think you make a good point except one of the things I have heard about that building and what overwhelms me about that building is the size. Just the sheer size and volume of that building and having it set up on a hill, it looms very large. I heard the term "haunted house," it gives you that, just overwhelming impression and I have to tell you, if you look up at that building, those signs, in comparison to the building, look very small. They just look tiny compared to the sheer volume. Now, on the tower themselves, they're okay, if you weren't so far back from the road. But when you put it into the grand scale of the property and the building, those signs just shrink up, they just shrink up and, in my opinion, the building overwhelms those signs because, again, the code is a "one size fits most," meaning if you have a small building, if you have a medium building or if you have a super gigantic building in a particular zone, the code fits you. It doesn't matter how big your building is, you get so many square feet on your building.

LARRY O'SULLIVAN: Mm-hmm.

CATHY CHAMPAGNE: And I understand, you know, you can't...it really does have to be a "one size fits most" but that's where I see, time and time again, people come to me and say, "well, you know, we're allowed 'x' amount of square feet," and there are situations, it's, you know, that bell curve, here we are on the end of, you know, we're on the end of the curve. In this situation, that building is just overwhelming and those signs on the building just shrink up and they just...they just don't carry the message.

LARRY O'SULLIVAN: I think you made my point, though. The building itself identifies that at The Elliot...

CATHY CHAMPAGNE: I think there's plenty of people, though, plenty of people who don't yet identify that building. Not yet.

LARRY O'SULLIVAN: Well, okay.

CATHY CHAMPAGNE: I mean, it's just my opinion and I...

LARRY O'SULLIVAN: Do you live here, Miss Champagne?

CATHY CHAMPAGNE: I do not live in Londonderry.

LARRY O'SULLIVAN: Do you use that facility?

CATHY CHAMPAGNE: I absolutely would. No doubt about it, I would. I had an employee who got something in his eye last week and I came that close to sending him to Londonderry urgent care. I was on the phone with him and he was either gonna go to Elliot or Londonderry urgent care and I said to him, and this man is on the road ten (10) hours a day, every day, and he said "where do you want me to go?" And I said, "do you know where Londonderry urgent care is?" And I could hear the question in his voice and unfortunately, he was not one of the people, you know, who installed this and he said, "Ummm..." And the hesitancy just made me say, "forget it, go to Elliot." I didn't want him sort of roaming around. I didn't want him...

LARRY O'SULLIVAN: So, you're saying this is where he wound up, at this...at what we're talking about now, where the...?

CATHY CHAMPAGNE: He went to Elliot.

JIM SMITH: No, not...

LARRY O'SULLIVAN: What is this?

CATHY CHAMPAGNE: Excuse me, I'm sorry, I wasn't clear. He went to The Elliot emergency room in Manchester.

LARRY O'SULLIVAN: Okay. Mm-hmm.

CATHY CHAMPAGNE: And this thing happened on Brown Ave in Manchester, so he could of kind of gone...I could have sent him in either direction, it really wouldn't have been, sort of, a lot of time either way in terms of time, but he kind of had that thing in his voice like, 'I'm not a hundred percent sure where urgent care is,' and I wound up...and unfortunately, he spent the entire afternoon at the emergency room. So, in hindsight, it would have been great to say, you know, 'here's where it is.' So, this is a man who travels the state, he is everywhere all day he's on the road. And he wasn't a

hundred percent sure where this place was and I don't think that's terribly unique. It's just, and again, it's just my opinion but it was an interesting experience that just happened last week.

MARK OFFICER: Okay. Larry, it's okay to disagree if...just move on or...

LARRY O'SULLIVAN: Yes.

MARK OFFICER: Okay.

LARRY O'SULLIVAN: I'm asking...

MARK OFFICER: Okay. Move on.

LARRY O'SULLIVAN: ...subsequent questions.

MARK OFFICER: Alright.

LARRY O'SULLIVAN: That's all. I was just talking about the services now that this sign somehow reflects the services that are available.

CATHY CHAMPAGNE: Mm-hmm.

LARRY O'SULLIVAN: I don't understand how this sign reflects the services.

CATHY CHAMPAGNE: Well, I think The Elliot is synonymous with health care. I think if you "Elliot," it's going to be evident that health care services are available in that building.

LARRY O'SULLIVAN: Okay. Is this sign going to, then, help to identify the radiology group there or the MRI group or the diabetic or the cancer group or the...

MARK OFFICER: Larry, what are you proposing, that they have a sign for each service available?

LARRY O'SULLIVAN: No, because I'm afraid they will.

MARK OFFICER: How?

LARRY O'SULLIVAN: If they put in the cancer center there, if...

MARK OFFICER: Alright, we're here to hear this one special request.

LARRY O'SULLIVAN: I'm trying to draw the point...

MARK OFFICER: Okay, just...

LARRY O'SULLIVAN:that this is going to be...

MARK OFFICER: Alright, draw it out if you have a point.

LARRY O'SULLIVAN: ...able to provide the services.

MARK OFFICER: Okay, let's get to the point.

LARRY O'SULLIVAN: That is what it is...

MARK OFFICER: Okay.

LARRY O'SULLIVAN: ...that this is a general services sign, then...

CATHY CHAMPAGNE: From what I...

LARRY O'SULLIVAN: ...for all the services that are available in the building.

CATHY CHAMPAGNE: From what I understand, after working with these folks, I haven't heard anything about that. All I know is that these signs on the tower, they would like them to be more visible, more legible. I have nothing on my radar screen whatsoever from now for two (2) years from now for any other building sign. Being in the sign business, I wish I did, but I don't. There's no other building signs on my radar screen for this property.

LARRY O'SULLIVAN: That's a good thing.

MARK OFFICER: Well, and if there were, we hear them as they come up. If they get to the Zoning Board. Okay...

YVES STEGER: How many tenants are there in the building?

CATHY CHAMPAGNE: I honestly can't answer that. I could give you a guess but I don't know. I'm sorry.

BARBARA DILORENZO: I'd like to ask a question. This looks like this is going to be approximately six (6) inches higher, the letters, than they are right now.

CATHY CHAMPAGNE: Let me just take a quick...

BARBARA DILORENZO: 'Cause I'm seeing that...

CATHY CHAMPAGNE: Let me take a quick look.

BARBARA DILORENZO: ...the proposed is twenty one (21) and seven eighths (7/8).

CATHY CHAMPAGNE: And seven eighths (7/8). Yup.

BARBARA DILORENZO: And the existing is fifteen seventy five...point seven five (15.75)?

CATHY CHAMPAGNE: Okay.

BARBARA DILORENZO: Okay, and then you've got four (4) inches longer, proposed is thirteen (13) by six (6)...

CATHY CHAMPAGNE: Thirteen (13) foot, six (6).

BARBARA DILORENZO: Right.

CATHY CHAMPAGNE: Yeah.

BARBARA DILORENZO: And existing is nine and a quarter ($9\frac{1}{4}$)?

CATHY CHAMPAGNE: Okay.

BARBARA DILORENZO: "Plus or minus," it says.

CATHY CHAMPAGNE: Okay.

BARBARA DILORENZO: This looks like you're gonna have to change that whole design of where the windows are here. That's what it looks like to me.

CATHY CHAMPAGNE: No, the windows don't change.

BARBARA DILORENZO: But the piece between the windows and...

CATHY CHAMPAGNE: That background, that white background panel that you're seeing, is that what you're referring to?

BARBARA DILORENZO: Yeah, but I'm also seeing, it looks like...not shingled but clapboard or whatever they call it.

CATHY CHAMPAGNE: Do you mind if I come over and see what you're looking at?

BARBARA DILORENZO: Yeah.

CATHY CHAMPAGNE: Okay, 'cause I'm not...

BARBARA DILORENZO: I mean, I don't mind if that...is that okay?

LARRY O'SULLIVAN: It's the proposed, right?

BARBARA DILORENZO: Yeah, it's in the pictures here.

YVES STEGER: Mm-hmm.

BARBARA DILORENZO: Okay. This is what it is now, okay? This is what it is now, right?

CATHY CHAMPAGNE: That's what it is now.

BARBARA DILORENZO: Fifteen (15), okay.

CATHY CHAMPAGNE: [inaudible] now.

BARBARA DILORENZO: Okay, now I look at this, this is saying twenty one seven (21-7).

CATHY CHAMPAGNE: Oh, I see what you mean.

BARBARA DILORENZO: See what I mean? You have to cut this whole piece out here.

CATHY CHAMPAGNE: We're actually not cutting it. What we're going to do and what you're seeing there, that's just a background that we put onto the drawing. We're actually just going to install the sign right over that. Right over this whole area, the clapboard will actually be behind our sign. That...

BARBARA DILORENZO: Okay. Okay.

CATHY CHAMPAGNE: That's just there.

BARBARA DILORENZO: Right, so now we're going from this complete distance here. You're using this whole area...

CATHY CHAMPAGNE: We're using this whole area...

BARBARA DILORENZO: ...and this whole area.

CATHY CHAMPAGNE: But the clapboard will be behind our sign.

BARBARA DILORENZO: Yeah.

CATHY CHAMPAGNE: They're not gonna take any of them out.

BARBARA DILORENZO: So, you're taking up this whole area here?

CATHY CHAMPAGNE: Correct.

BARBARA DILORENZO: Okay. And you feel by increasing that height and length of the sign that that's going to bring more people to the facility, is that basically what you're saying? People aren't recognizing the building? See what I mean, Jim?

CATHY CHAMPAGNE: Well..

JIM SMITH: Yeah...

BARBARA DILORENZO: See how this comes down and this whole area here just moves down.

JIM SMITH: Yeah, that's...I think that's part of the problem.

BARBARA DILORENZO: Do you need...what do you need, the old one? New one?

JIM SMITH: No, the...is that one of the old ones?

BARBARA DILORENZO: Right here, I think there's some. This is an old one.

JIM SMITH: No...

BARBARA DILORENZO: No, that's a new one, sorry, twenty one and a half (21.5). Are those all new ones?

YVES STEGER: I don't think there were others.

BARBARA DILORENZO: Well, here...do you wanna use this?

JIM SMITH: Okay.

CATHY CHAMPAGNE: I guess I wouldn't exactly answer that question by saying the reason we're here and asking for a larger sign is primarily to bring more people into the facility. That doesn't quite...that really doesn't quite fit in all the conversations I've had with the folks at Elliot. I think the way I would answer that is by saying what they're really concerned about is, clearly, making that sign more visible and more legible. I mean, for all of...just the ordinary and practical reasons.

BARBARA DILORENZO: Yeah, but the final outcome is...yeah...

CATHY CHAMPAGNE: But the biggest thing that I kept hearing...

BARBARA DILORENZO: Mm-hmm.

CATHY CHAMPAGNE: ...is 'it just doesn't look right.' And they've put so much time and effort and energy and money into that building, the design, the architecture, there's just an awful lot of thought into that property and the way it looks. It really is...a beautiful building and those signs just don't quite look right. They just don't fit.

JIM SMITH: Okay. Can I jump in at this point?

MARK OFFICER: Sure.

JIM SMITH: I've been looking at this sign and I...right from the get-go, as soon as it went up, it didn't look like it was gonna work to me. I think part of the problem is, they got that white piece where the letters are actually mounted on the side of the building and it's so close to that overhang that the sign just kind of blends into it and you don't really see the top of the letters.

YVES STEGER: Mm-hmm.

JIM SMITH: In the proposed one, it's kind of superimposed on it, but I think the real logic of the whole game is to make it slightly larger and to drop it down from that overhang so it's more visible and more distinct. And I think that's part of what I think should happen but that's my opinion from just looking at the sign. And I think that's the trouble with it, because if you drive by, you see these letters but they're so tucked up underneath that overhang, you can't really see them because they just kind of blend in to that top...

BARBARA DILORENZO: Mmm.

JIM SMITH: ...and the whole top of the sign is just kind of like one long line and the tops of the letters are so close to that overhang, you just don't see them the way they should be.

BARBARA DILORENZO: So, if they took the same size letters that they have now and just moved it down...

LARRY O'SULLIVAN: Would that accomplish the same thing?

BARBARA DILORENZO: Right. Because if you just took...

JIM SMITH: It would be better but I still...you're also looking at the distance, too. You know, you're talking a building that's well set back from the property lines, especially if you're coming up Mammoth Road, you only have a very brief time to look at that sign. You know, if you're coming down, I'm not even sure if you can see it from that direction.

CATHY CHAMPAGNE: You can.

JIM SMITH: Yeah.

CATHY CHAMPAGNE: But, again, the distance works against you.

JIM SMITH: Yeah.

MARK OFFICER: Actually, while we're on that, just so I know where this tower is, is that the point of the building that's sort of facing south towards...

JIM SMITH: Southwest corner.

MARK OFFICER: Okay. So, it's...okay.

JIM SMITH: Closest to Mammoth Road.

MARK OFFICER: But sort of near the corner.

JIM SMITH: Yeah, it is the corner.

CATHY CHAMPAGNE: Correct. Yup.

MARK OFFICER: Buttrick, yeah...okay.

JIM SMITH: It is the corner of the building.

MARK OFFICER: Alright. Okay, Barbara, did you have any other questions?

BARBARA DILORENZO: No, I don't think so.

MARK OFFICER: Okay. Yves?

YVES STEGER: No.

MARK OFFICER: Okay. I just have two (2) questions. So...

CATHY CHAMPAGNE: Sure.

MARK OFFICER: ...getting back to my...to follow along on that, so, now that I know where this tower is, I can look and I guess how far this is from Buttrick and Mammoth but do you know exactly how far it is?

CATHY CHAMPAGNE: I don't.

MARK OFFICER: Okay. I'm looking at the property...

YVES STEGER: Mm-hmm.

MARK OFFICER: ...and I'm guessing it's like three hundred (300) feet to Mammoth and maybe three hundred (300) or a little more...

JIM SMITH: Because you've got the entire parking lot in front of it.

MARK OFFICER: Right. So about three hundred (300) feet to Mammoth, three hundred and fifty (350) to Buttrick is what I'm guessing. Alright, and do you know the square footage of the building? I looked on the property details. I couldn't find it. Should it be on that, Jim or Jaye, do you know? The square footage of the building?

JIM SMITH: On the...

JAYE TROTTIER: It should be if it's up to date.

JIM SMITH: ...on the property record. The Assessor should have it.

MARK OFFICER: Yeah. It's an awfully darned big building. Okay.

YVES STEGER: I see at least two hundred and thirty (230) feet.

MARK OFFICER: Well, how'd you do that?

YVES STEGER: Just hit 'measure' here...

JIM SMITH: To go back to that question you had about multiple tenants, there is a directory sign just to the side of the front main entrance...

MARK OFFICER: Mm-hmm.

JIM SMITH: ...which will give the names of the various occupants and different...

MARK OFFICER: Yeah.

JIM SMITH: ...things are that available.

MARK OFFICER: Okay.

CATHY CHAMPAGNE: Mm-hmm.

MARK OFFICER: Alright. I'm gonna open it up to the public now. Anybody speaking in favor of this request? Alright, seeing none, those opposed or having questions? Alright, seeing none, I'll bring it back to the Board one more time. Anybody else have any other questions? Any questions on the five (5) points of law or what they're trying to do? Jim, any other comments? Are you all set?

JIM SMITH: No.

MARK OFFICER: Okay.

JIM SMITH: Okay, the only other question...the building across the way that you were referring to, those signs were put up under the previous sign ordinance, so there were different rules in effect at that time.

MARK OFFICER: What building is that? Is that the one exactly on the corner on the other side on...

JIM SMITH: Yeah.

MARK OFFICER: ...Buttrick?

LARRY O'SULLIVAN: Mm-hmm.

JIM SMITH: It's...

MARK OFFICER: That's...

JIM SMITH: It has one (1) level, which is...

MARK OFFICER: ...the doctors, right?

JIM SMITH: Yeah, you have doctors but there's a second level but you have to go around the back side to get...

MARK OFFICER: Yeah.

LARRY O'SULLIVAN: It's a fairly large building and quite a few offices...

JIM SMITH: Ehhh...

MARK OFFICER: And it's right on top of the road, though.

LARRY O'SULLIVAN: Right.

MARK OFFICER: Yeah.

LARRY O'SULLIVAN: Well...

MARK OFFICER: Okay.

LARRY O'SULLIVAN: ...which road?

MARK OFFICER: Buttrick, I believe,

LARRY O'SULLIVAN: Right. Yeah.

MARK OFFICER: Yeah. Actually, Mammoth, too.

LARRY O'SULLIVAN: I think the point of this one is that it's highly visible on Mammoth.

MARK OFFICER: Okay.

LARRY O'SULLIVAN: And the issue really isn't Buttrick, so...

MARK OFFICER: Alright, well, okay, I think we're ready to deliberate.

YVES STEGER: May I have a...?

MARK OFFICER: Go ahead.

YVES STEGER: One point of clarification about the rules. "The wall sign shall not exceed a total area of fifty (50) square feet," so, actually, they could put...

JIM SMITH: Well, if there was only one (1) occupant.

YVES STEGER: That's what it is.

BARBARA DILORENZO: No...

JIM SMITH: Well, it's...

YVES STEGER: There is only one (1) name, so you cannot...

JIM SMITH: There's only one (1) main name...

YVES STEGER: That's why I asked the question about the number of tenants.

JIM SMITH: Well, there are other tenants. In theory, if they wanted to try to have signs, you know, but it would be between them and the owner of the building as to whether they're gonna permit any additional signs on the building. I think that the way it's going right now, I don't think they are.

YVES STEGER: Well, they only have a single tenant name. So, they could, according to the rules, have a single sign that would be fifty (50) feet.

LARRY O'SULLIVAN: Mm-hmm.

YVES STEGER: And they could put it so that it is visible everywhere and they could have a fifty (50) foot sign without even coming to this Board. And I'm trying to clarify this. Is this correct? Because if they are a single tenant...

JIM SMITH: Well...

YVES STEGER: ...that was the reason for my question, they could have, according to the rules, have a fifty (50) foot sign...

JIM SMITH: It is...

YVES STEGER: ...towards Mammoth.

JIM SMITH: ...a multi-tenant building.

MARK OFFICER: So, you're correct but what Jim is saying is it's not single tenant, right?

JIM SMITH: Right. Because right now they have a...I believe it's a cancer outfit that's moving in on the second floor of the second phase.

LARRY O'SULLIVAN: They also have radiology in there...

YVES STEGER: That doesn't make sense. So, if...

LARRY O'SULLIVAN: They have a separate radiology group. I know that there's six (6) offices in there now.

BARBARA DILORENZO: Plus there's doctor's offices and stuff, yeah.

LARRY O'SULLIVAN: So there could literally be, right now, by our ordinance, three hundred (300) square feet of signage there.

YVES STEGER: No...

LARRY O'SULLIVAN: Because there's six (6) independent businesses in there.

YVES STEGER: No, when there are multi-tenant, the maximum size is multiple walls are permitted but each wall sign cannot exceed forty (40) per tenant.

LARRY O'SULLIVAN: Forty (40) feet. Forty (40) feet.

YVES STEGER: It's forty (40) per tenant.

JIM SMITH: Right.

LARRY O'SULLIVAN: Forty (40).

YVES STEGER: But in this case, it is the same tenant's name that is going there. So, that's why I'm asking. It's a point, I mean, I'm trying to understand the rules before I can make a decision. There is a single name here, so if there was 'Joe Blow' and 'Joe Schmo,' they could each have forty (40). If there is only 'Elliot,' could they have fifty (50) and have a single one with fifty (50)?

JIM SMITH: If it was...

LARRY O'SULLIVAN: That was the purpose, yeah.

JIM SMITH: ...strictly just 'Elliot,' but I believe there's gonna be other names in there.

LARRY O'SULLIVAN: Well, that's my point.

YVES STEGER: On the top?

JIM SMITH: No, I mean there are gonna be other occupants in there who are gonna be separately run, independent of Elliot that are simply gonna be a tenant.

LARRY O'SULLIVAN: Right, and so they're gonna get forty (40) feet? Each one of them is gonna get forty (40) feet? That's why you have a separate owner from Elliot.

YVES STEGER: That's the strange thing to me.

LARRY O'SULLIVAN: So, what we have and the purpose of my asking the questions before about...

YVES STEGER: Mm-hmm.

LARRY O'SULLIVAN: ...the services, The Elliot doesn't...just because you know it's Elliot, it...the building screams 'health care' from just looking at it and if anybody ever missed it, you know, the old...the blind man would have a hard time missing this building but...

YVES STEGER: So, if the sign...

LARRY O'SULLIVAN: I agree that the signage that's there is weak...

YVES STEGER: Mm-hmm.

LARRY O'SULLIVAN: ...to identify the facility. What I believe, and I know this is not in front of us...

MARK OFFICER: Let's don't deliberate.

LARRY O'SULLIVAN: ...our...I thought we were having deliberation, you brought it back.

MARK OFFICER: No, no, no, we haven't deliberated yet.

YVES STEGER: I was just asking a technical question.

MARK OFFICER: But I'm still confused over what Jim and Yves were talking about. So, let's save the deliberations, so...I thought I understood but now I'm beginning to get confused.

YVES STEGER: I'm still confused, myself.

BARBARA DILORENZO: I'm not.

YVES STEGER: Oh, okay.

JIM SMITH: Okay, let me try another time at it. Okay, right now, you got radiology and you got several other functions in there, i.e. the critical care, which are truly being run by The Elliot hospital and they're the prime movers of those. However, they are renting out spaces to other medical entities. There is a cancer outfit coming in and there's also a lab going up on that second floor on the

right side as you go through the main door. I think the way that those are being handled is the directory sign that's to the side of the front door.

YVES STEGER: Mm-hmm.

JIM SMITH: They're gonna have a spot on that to put their name on that point and I think that's the choice that Elliot has made on how they're gonna address those types of other occupants rather than have signs on the building. And I think that's the way they're approaching it.

YVES STEGER: Mm-hmm.

JIM SMITH: If you look at our ordinance, true, if they wanted to follow the ordinance the way it's written, they could, in fact, have forty (40) square feet for each separate entity that's in there that's truly a separate one. I would say the critical care and the radiology and everything, that's all Elliot, so I would treat that as one (1) entity.

LARRY O'SULLIVAN: I think critical care may be the only Elliot-owned service that's available there and every other service...

JIM SMITH: No...

LARRY O'SULLIVAN: Every other service is gonna be private.

JIM SMITH: No.

LARRY O'SULLIVAN: Because right now, the radiology is Southern New Hampshire Radiology.

JIM SMITH: Okay. But I know I'm going to one of the doctors there and he's part of the Elliot system.

MARK OFFICER: Okay, so it definitely is multi-tenant...

JIM SMITH: Right.

MARK OFFICER: ...in my opinion. Multi-tenant, they're allowed fifty (50) feet, though, but they're only asking for...

JIM SMITH: No, no, no. If it was single tenant...

MARK OFFICER: Oh, alright...

JIM SMITH: ...it would be fifty (50).

BARBARA DILORENZO: Yeah.

MARK OFFICER: Yeah.

YVES STEGER: Yeah. If it is definitely multi-tenant, they could have ten (10) tenants each with forty (40) feet and...

LARRY O'SULLIVAN: Bingo.

YVES STEGER: ...there would be four hundred (400) square feet of signage...

MARK OFFICER: So, it's multi...

LARRY O'SULLIVAN: Bingo.

YVES STEGER: And they don't even have to come here.

LARRY O'SULLIVAN: Right.

BARBARA DILORENZO: Mm-hmm.

MARK OFFICER: Right, so multi, they're only allowed forty (40).

YVES STEGER: Wow.

MARK OFFICER: What makes this unique is that it's multiple tenant, yes, but they're really branded by one (1) tenant. That's how they're branding...

YVES STEGER: Yes, and that's why it...I think it is relevant in our decision...

MARK OFFICER: Yeah.

YVES STEGER: ...because they could choose either to have 'Elliot' as a single name for the building and then use the freestanding signage which has different rules...

MARK OFFICER: Mm-hmm.

YVES STEGER: ...altogether, you know, in terms of size and everything else and then they could have twenty (20) of those on the freestanding without impacting the rest of the building. I mean, if we have ten (10) or fifteen (15) of those forty (40) feet on that building, it's gonna be pretty ugly.

MARK OFFICER: Alright.

YVES STEGER: And it is, according to the rules.

MARK OFFICER: Alright.

LARRY O'SULLIVAN: Jaye has the figures on the square footage. It's twenty nine thousand, eight hundred (29,800) square feet of finished space in that building.

MARK OFFICER: Okay.

YVES STEGER: Mm-hmm.

MARK OFFICER: Twenty nine what?

LARRY O'SULLIVAN: Twenty nine thousand (29,000).

MARK OFFICER: Yeah. Okay. Alright, thank you, Jaye. Okay. Are we all set to deliberate?

LARRY O'SULLIVAN: Yup.

MARK OFFICER: Okay. Alright, Ma'am, do you have anything else to add?

CATHY CHAMPAGNE: No.

MARK OFFICER: Okay. Alright. The Board will now deliberate on case number three (3). We'll accept no further questions or input from the public.

DELIBERATIONS:

MARK OFFICER: Alright, number three (3). Let's start with the points of law. And the first one, the proposed use would not diminish surrounding property values. Any comments on that one?

YVES STEGER: A twenty (20) percent change in size but identical, the fonts are still Serif, they are the same, I don't think that's gonna make any big change.

MARK OFFICER: Well, we're talking, what, six (6) inches more on height.

YVES STEGER: Mm-hmm.

MARK OFFICER: For a building that's twenty nine thousand (29,000) square feet, so...

YVES STEGER: But that, the (A), I think is no...

MARK OFFICER: No, I think the impact on surrounding property values has been done when the building went up. For better or for worse, but that's not for us to decide. Alright, granting the variance...any other comments on that? Okay. Alright, granting the variance would not be contrary to the public interest. And the applicant was talking about the clear, visible, appropriate and legible way...alright, any comments...

YVES STEGER: No.

MARK OFFICER: ...on contrary to being...contrary to the public interest? This sometimes is...does come up for signs.

YVES STEGER: Mm-hmm.

MARK OFFICER: Particularly if they're close to the roads and things like that. Larry?

LARRY O'SULLIVAN: Yeah.

MARK OFFICER: No comment?

LARRY O'SULLIVAN: Nope.

MARK OFFICER: Okay.

LARRY O'SULLIVAN: You heard what I had to say and...

MARK OFFICER: Okay. Alright. Now, special conditions, the first part are the special conditions, both of which need to be met, is the first one is the area variance is needed to enable the applicant's proposed use of the property, given the following special conditions. Alright, so the height and setback of the tower from the road makes these signs an important component to proper identity of The Elliot. The existing sign is not adequately legible. So, basically, what the applicant was saying is that it's small. Alright? What I was getting at, and Yves corrected me, what did you say the distance was from the road?

YVES STEGER: About two hundred thirty (230) feet.

MARK OFFICER: Two hundred and thirty (230) feet. That's what comes to me is that this is set back far from the road. Is that from Mammoth or Buttrick?

YVES STEGER: From Mammoth.

MARK OFFICER: Yeah, and it's roughly the same from each.

YVES STEGER: About the same.

MARK OFFICER: Yeah. So, that's one thing that strikes me is that this is far back from the road and it's a big building. So, any comments on this one?

LARRY O'SULLIVAN: When you drive by it, you don't recognize or read...you can't read that that says 'Elliot' or 'The Elliot'?

MARK OFFICER: You know, I gotta be honest, I never noticed it.

BARBARA DILORENZO: I was there today and I didn't have a problem recognizing...

LARRY O'SULLIVAN: Yeah, I drive by it every day. Multiple times a day and I don't ever see anybody missing the turn, I don't ever see anybody backing out on the road to see if they can find it.

You really, really have to have a problem if you can't recognize that building as, you know, the health care center there on the corner.

MARK OFFICER: Which health care center?

LARRY O'SULLIVAN: That's the only visible one.

MARK OFFICER: Right across the street there's health care facilities.

LARRY O'SULLIVAN: Well, you'd never know it from looking at it. You would assume that they're all realtor offices or something if they didn't have signage out front. This is the one that was designed to look like a health center and then it was built on such a promontory that you really have to have something wrong in order not to notice that this is a health care facility and that it's there.

MARK OFFICER: I don't know...

LARRY O'SULLIVAN: So, it's the giant in the room.

MARK OFFICER: I don't know if I agree with that because it's really not that all visible. What you see is that...that, that bluff.

YVES STEGER: Mm-hmm.

MARK OFFICER: So I don't know if I agree with you on that. I don't think it's entirely obvious to people driving up Mammoth Road from 102 that that is a health care facility. So...but that's my opinion.

BARBARA DILORENZO: There is a sign there, too, though, against the rocks that says 'Elliot'.

YVES STEGER: Yes.

MARK OFFICER: Yeah and we denied a request for that.

YVES STEGER: Yeah.

BARBARA DILORENZO: But it's there. It's there right now.

LARRY O'SULLIVAN: Yeah, but if it's within...

MARK OFFICER: But it's probably...

LARRY O'SULLIVAN: If it's within the requirements of our building...

MARK OFFICER: I would assume they did it within the requirements of the zoning?

JIM SMITH: Yeah.

MARK OFFICER: Right, they asked for...

JIM SMITH: And I think that would only be visible going north.

MARK OFFICER: Right.

JIM SMITH: It's not very visible going south.

MARK OFFICER: Yeah.

YVES STEGER: Yeah.

BARBARA DILORENZO: Mmm.

MARK OFFICER: Yeah.

LARRY O'SULLIVAN: And I don't think there's any, you know, you can't miss it, is really what I'd say. You know, I don't disagree that the building should have a sign. I think what we have is fair. And what they have there is visible and is fair, so, that's where I think there's, you know, the difference.

MARK OFFICER: Yeah, I don't know, I...

LARRY O'SULLIVAN: The special conditions of the property are that it's far away and high, which also makes it more visible, so, it takes away the reason to have a bigger sign, in my opinion.

YVES STEGER: Yes, but what you are always referring to is, can somebody not miss the building? And obviously, nobody's gonna miss the building, seeing the name that is written on the building is pretty difficult when you see this. So, that's...yes, nobody can miss the building. Nobody if it's...you're told it is The Elliot, would probably be able to see it, given the distance, the fact that it's high and that there is those ledges all around. That...when I looked at it, I look at this and that's the current view and then I compare these two (2) here and I agree with Jim, I mean, the fact that they place it just under the overhang, it really is not a very...

LARRY O'SULLIVAN: It doesn't work well.

YVES STEGER: It doesn't work at all.

LARRY O'SULLIVAN: Right. I agree.

YVES STEGER: They could put it lower but when I compare the two (2) here, I say to myself, 'look at that.'

MARK OFFICER: Yeah.

YVES STEGER: And that's...that's how I feel about it.

MARK OFFICER: Yeah. Yeah, I tend to agree with you on that one, Yves. Okay.

YVES STEGER: And I'm not one for trying to get larger signs...

MARK OFFICER: Right.

YVES STEGER: ...in this city, you know?

MARK OFFICER: Mm-hmm.

YVES STEGER: Definitely not.

MARK OFFICER: Okay. Any other comments on (C.1). Okay, (C.2), the benefit sought by the applicant cannot be achieved by any other method reasonably feasible for the applicant to pursue other than an area variance, so, the only other alternative is to keep what they have, really.

YVES STEGER: Mm-hmm.

LARRY O'SULLIVAN: And move it down two (2) feet.

BARBARA DILORENZO: Or lower it down.

YVES STEGER: Or move it down.

MARK OFFICER: Or move it down, yeah.

LARRY O'SULLIVAN: Yeah.

MARK OFFICER: Yeah.

LARRY O'SULLIVAN: And that would accomplish at least half of what we were trying to do by making it more visible. We do believe that...I think we all agree that putting it under the eaves makes it less visible. Bringing it out from the eaves, therefore, makes it more visible. So, do you accomplish the same thing? You know, if it was more than six (6) feet or whatever the distance is or, I'm sorry, the delta is, I'd have a real problem with it at all but because this is a variance and I firmly believe that there's gonna be four hundred (400) other square feet of signage going up on that building, I think that you're really looking at setting a precedent here.

MARK OFFICER: Okay. Alright, anybody else?

LARRY O'SULLIVAN: The reason why I'm saying that is because if you set the precedent for this one having unique circumstances, every other sign that they ask for will use exactly the same requirement and wind up with larger signage and the only reason that this one is, you know, twenty (20) percent larger is because aesthetically, it looks great on their tower. Bring a sign lower on that

same building and put it over one of the doors and you can have a forty (40) square foot sign on each of the doors.

MARK OFFICER: Then it may not be visible from Mammoth. I mean, if you look at the screen shot that Yves is looking at and the ones we have, you're right up against the top of the window from that view on Mammoth.

LARRY O'SULLIVAN: I'm not suggesting the place that they put it, each one of the signs, I'm saying that they could.

YVES STEGER: So...that's an interesting point.

LARRY O'SULLIVAN: If you grant...if we grant this variance, every one of the signs that go on that beast can be...we just change the zoning in the town. Because every one of the signs, by our rules and regulations, fit under the same requirements. If it's a multi-tenant, forty (40) square feet. Boom. Done. This one now is give them a variance to do sixty (60) or fifty (50) or forty nine (49) or whatever it is.

MARK OFFICER: The other tenants could come...well, they actually don't even have to come here to put up forty (40) square feet.

LARRY O'SULLIVAN: That's right.

MARK OFFICER: Yeah.

LARRY O'SULLIVAN: I mean...

YVES STEGER: That they can do anyway.

MARK OFFICER: Right.

YVES STEGER: So that we cannot preclude.

LARRY O'SULLIVAN: I agree.

YVES STEGER: But you're worried they could come here and ask...

LARRY O'SULLIVAN: And ask for a hundred.

YVES STEGER: ...each one of them, to have the forty seven (47).

LARRY O'SULLIVAN: Or ask for a hundred.

MARK OFFICER: But I think it's different. I think it's different. Because this is the brand we're talking about.

LARRY O'SULLIVAN: [inaudible] ...Board for approval.

YVES STEGER: Actually, we would not approve one hundred (100) square foot for each tenant.

MARK OFFICER: Alright, I'm gonna open up the floor for Jim for a second.

JIM SMITH: I think one thing that's unique about this, it's on two (2) faces of the building. Any other sign is gonna be near the door of wherever it's going on so it's only gonna be one (1) face, so it's gonna be one (1) sign in one (1) location, so it's not gonna have the same argument that it's facing two (2) rights of way. That would be my answer for what you're suggesting.

MARK OFFICER: Yeah.

YVES STEGER: Yeah, actually, yes, because each one here is only twenty four (24) feet.

MARK OFFICER: Right.

YVES STEGER: The other ones could be forty (40) feet, which would be more than enough if they are a single sign.

MARK OFFICER: Yeah. That's true.

YVES STEGER: So, imagine, I mean, this is each twenty five (25). A forty (40) foot sign would be about this size here and they would put them here, here and here. They could do that. But right now, essentially, they are asking for two (2) times twenty seven (27).

LARRY O'SULLIVAN: Mm-hmm.

YVES STEGER: Instead of...sorry, two (2) times...

MARK OFFICER: Yeah, you know, I really, you know, granted, everybody wants their name as signs and all that but I question whether, for this facility, if everybody would want...I think they would go under the branding, that's how they would direct people.

LARRY O'SULLIVAN: So, if Shields MRI...

MARK OFFICER: Not in all cases. Well, maybe not them. I don't know. Some doctor with a very long name who does a very specific thing, I mean, does he need a forty (40) foot sign? You know, so...

YVES STEGER: But those they can get anyway.

MARK OFFICER: Right. They can get them anyways, yeah. Yup, can't do anything about it.

YVES STEGER: And actually...

MARK OFFICER: Okay. Alright, let's finish up the last two (2) and then just have a little summary discussion before we vote. So, the fourth one is granting the variance would do substantial justice. I think this one sort of determines on how you feel about the special conditions, whether or not we're doing them substantial justice. So the applicant referred to the public being served, being able to see the sign and so forth. Any comments on that?

YVES STEGER: No.

MARK OFFICER: Alright, and then the fifth one. The use is not contrary to the spirit of the ordinance. Alright? So, the spirit of the ordinance, we all know, is to maintain visibly appealing signs, protect public interest and so forth. Any comments on that? Alright, so let's just review some of the factors that play here. So they're asking for a twenty (20) percent increase, right? Which is significant but I keep going back to the size of the building and the distance. I don't know if that really comes into play so much for me, the fact that it's twenty (20) percent and what Jim just mentioned, that it's two (2) facing, it's facing two (2) sides. So, it's twenty (20) percent increase and it's two (2) sides that we're talking about. They're allowed forty (40) and they're asking for just under fifty (50). We know the size of the building, we know the distance from the road, we know the fact that this is multiple tenants. Other tenants could have signs without coming to us.

LARRY O'SULLIVAN: Mm-hmm.

MARK OFFICER: Forty (40) feet or less, if they so desire. I think what this really comes down to is if we feel that the Elliot branding, the Elliot name justifies having this additional signage on two (2) sides of a tower, given its distance from the road and the height of the tower and the visibility from Mammoth and Buttrick. You know, I'm really...this is a tough one, I gotta admit.

YVES STEGER: Mm-hmm.

MARK OFFICER: This is a tough one. At least for me.

YVES STEGER: So, I have the same concern that Larry has but in a sense, not exactly, because if there were two (2) tenants, which both had the same name, 'Elliot,' they could put two (2) times forty (40) on that tower. And they're only asking for two (2) times twenty five (25).

MARK OFFICER: Actually, two (2) tenants might be named 'Elliot'.

YVES STEGER: I mean, that's why my question about how many tenants are there.

LARRY O'SULLIVAN: I don't think that would be here. I don't think that would be here. I don't think our Code Enforcement Officer would allow it. I think that is...that is so just plain wrong that they wouldn't allow it to get here. That it wouldn't get past the Planning Board and that our Code Enforcement wouldn't allow that whatsoever. Because that is vagrant, I mean it is flagrant, I mean, flagrant rule breaking, rule bending, to play a game. So I don't think it would here.

YVES STEGER: What I'm trying to say is that if they decided to put 'Elliot' and 'radiology,' these are two (2) tenants, two (2) separate entity. They could put two (2) times forty (40) feet on that tower.

LARRY O'SULLIVAN: Mm-hmm.

YVES STEGER: They don't even have to come here.

LARRY O'SULLIVAN: Yup.

YVES STEGER: Okay?

MARK OFFICER: It wouldn't make sense but, yes, they could.

YVES STEGER: I'm just taking what the rule...

MARK OFFICER: Yeah.

YVES STEGER: That's why those questions about...

MARK OFFICER: Yeah, I know.

YVES STEGER: ...fifty (50) foot and, I mean, essentially, what they're asking is, even though they're using two (2), they are dividing their own fifty (50) by two (2).

LARRY O'SULLIVAN: Mm-hmm.

YVES STEGER: But normally it's forty (40), so, that's why we are...we have to decide. But...that's why I'm less worried than Larry is, because of that.

MARK OFFICER: Yeah.

YVES STEGER: And I agree, but it was just, you know, to show the concept, you know, if they decided to go with another tenant, they could put two (2) times forty (40) and there is not even room to put two (2) times forty (40) in there because they are using two (2) times twenty five (25) but from a pure visual point of view, which is the thing that really, we are worried, and where the interest of the community is is that, well, imagine, you know, by rules, they could have two (2) times forty (40). Now here, they're asking to go from a total of two (2) times twenty (20) to two (2) times twenty five (25) and I think that the visual impact and the spirit of the ordinance, I think, are met in that case because of that. That's my feeling, okay? This is a very difficult...that's why I...

MARK OFFICER: Yes. This is...

YVES STEGER: We went around about, you know, number of tenants and what they do and I, you know, there's probably no...no very clear answer about it. This is interpretation, in my mind and...

MARK OFFICER: Yeah, I agree. There's...this is about as...

LARRY O'SULLIVAN: Our ordinance, I don't think, is...

MARK OFFICER: ...one-off as you can get.

LARRY O'SULLIVAN: ...very clear about this. I don't think that we have, in our ordinance, things that cover this type of a scenario because when we have a building that's so far away from the road and as high, which is one of the uniquenesses for the variance...

YVES STEGER: Mm-hmm.

LARRY O'SULLIVAN: ...that are required, that I think are applicable here, they could be asking for, you know, ten thousand (10,000) square feet of signage...

YVES STEGER: Mm-hmm.

LARRY O'SULLIVAN: ...or what have you, or any, pick a number, that, if they request it, we don't have an option to say, you know, 'well, cut that in half,' or 'we'll put it restricted to,' you know, 'half the size,' because we don't have that option to say, 'let's cut it in half,' or 'let's do this,' because we don't have the expertise. We're not the ones who are gonna say you can see it from the road or you can't. I mean, you feel like you can't see it from the road and I say, you know, that is, to me, the very visible thing about that building, is at the top of this pretty cool promontory, you've got...

YVES STEGER: Mm-hmm.

LARRY O'SULLIVAN: ...a sign at all.

YVES STEGER: Well, you remember, we had that discussion. We had a case, I think it was along I-93, Harvey, or something like that?

LARRY O'SULLIVAN: Oh, right, yes.

YVES STEGER: That big business...

LARRY O'SULLIVAN: There you go.

YVES STEGER: ...that had exactly the same case that we're discussing here.

LARRY O'SULLIVAN: Similar. Very similar.

YVES STEGER: They had a similar one and they wanted to have the two (2) sides...

LARRY O'SULLIVAN: Very similar.

YVES STEGER: ...because people could see it from the road but as soon as you were on the access road, you could not see the other one.

LARRY O'SULLIVAN: You couldn't see the other one, right.

YVES STEGER: And we had exactly the same thing and I don't remember what we voted but I think we granted it.

MARK OFFICER: I don't think I was on that...yeah...

YVES STEGER: Remember that one?

MARK OFFICER: No, I don't think I was here 'cause I don't recall it.

LARRY O'SULLIVAN: But the point is that they had curved road and all the rest of that, so their circumstances were different...

YVES STEGER: Mm-hmm.

LARRY O'SULLIVAN: ...as this one is, so...

MARK OFFICER: The Sleep Inn, I recall.

LARRY O'SULLIVAN: The Sleep Inn was a different set of circumstances, yeah. But, I guess, where we're going with this particular one...

YVES STEGER: Mm-hmm.

LARRY O'SULLIVAN: I believe that their visibility is totally enhanced and, frankly, I don't think that the ten (10) percent or the twenty (20) percent difference is that big a difference. I do think that the alternatives are to drop the existing sign, as Barbara was saying...

BARBARA DILORENZO: I agree.

LARRY O'SULLIVAN: ...drop it a half a foot or a foot or what have you and you accomplish the same thing because it isn't that significantly larger. And that twenty (20) percent delta that we're talking about, from size to size, is that the distance or the figure of the number that we need to be using for that size letter from two hundred and forty (240) feet away, increase it twenty (20) percent and becomes visible? I mean, we don't have that magic. You know, how do you determine that? Would that make it visible, for Mark, better? I think, I'll take a look and it would make it visible entirely better. You know, for me, too.

MARK OFFICER: I don't know it would look visibly appealing.

LARRY O'SULLIVAN: That's the other half of it, is if it gets bigger than that, would it be appealing at all? But...

MARK OFFICER: I don't think it would look as good, to tell you the truth. You could end up with clipboard on top and bottom of it, yeah.

YVES STEGER: This one is a tough one.

MARK OFFICER: Yeah.

YVES STEGER: There's no doubt about it.

MARK OFFICER: Well, does anybody else have any other comments? 'Cause I think I see where people are going.

YVES STEGER: Mm-hmm.

MARK OFFICER: So...

BARBARA DILORENZO: I don't have any more comments or any...

MARK OFFICER: Alright. Do I...let me enter...does anybody have a motion to deny that they would like to make?

LARRY O'SULLIVAN: I'd like to make a motion to deny based on the fact that it's against the public interest and it does not have any special conditions, that there are multiple services that are available...I'm sorry, that's not part of the motion, take that out of the motion...that there is no deficiency in the existing signage and...that it does no better to serve the public interest to have a different size sign.

MARK OFFICER: Okay.

BARBARA DILORENZO: Can I add something to what you said, Larry?

LARRY O'SULLIVAN: Well, I don't have a second yet, so I'm game.

BARBARA DILORENZO: Oh, I'm sorry, I will second it.

MARK OFFICER: Okay.

LARRY O'SULLIVAN: Well, we could discuss it until it's seconded, right?

YVES STEGER: Yeah, you can change his...

BARBARA DILORENZO: But I would like to add what you said, that it can be achieved by another means, which would be to drop the existing sign lower.

LARRY O'SULLIVAN: Okay, I'll add that.

MARK OFFICER: Okay. So, we have a motion by Larry and a second by Barbara with an amendment by Barbara.

LARRY O'SULLIVAN: Which is seconded.

MARK OFFICER: Okay. Alright. Alright, any discussion on the motion on the table to deny case number three (3)?

LARRY O'SULLIVAN: I'd like to discuss it.

MARK OFFICER: Okay.

LARRY O'SULLIVAN: I know I made the motion but I wanna discuss it, too.

MARK OFFICER: It's on the table.

LARRY O'SULLIVAN: I only talked about public interest and the special conditions. There are the other reasonable methods that Barbara mentioned and that are now part of this motion. How about the substantial justice and spirit of the ordinance? I didn't ask about those, however, I don't think those are met, either. And I'd be willing to, you know, add those...

YVES STEGER: You don't to add, you know, normally, if we miss one (1) point of law, it's dead.

MARK OFFICER: Right.

YVES STEGER: So, it's sufficient, you don't need to have all five (5)...

LARRY O'SULLIVAN: Okay.

YVES STEGER: ...to miss all five (5) to miss...

LARRY O'SULLIVAN: Alright.

MARK OFFICER: It's part of the record.

YVES STEGER: ...to be denied.

MARK OFFICER: Okay. Alright, so we're discussing the...

LARRY O'SULLIVAN: A motion to deny.

MARK OFFICER: ...the motion on the table. The motion to deny. Yeah, I don't have anything to add 'cause I'm gonna vote the other way, so...Alright, any other comments?

LARRY O'SULLIVAN: That's why we have discussion, though, Mark, is to discuss it.

MARK OFFICER: Yup.

LARRY O'SULLIVAN: Right?

MARK OFFICER: I thought that they met the five (5) points barely.

YVES STEGER: Mm-hmm.

MARK OFFICER: Because this is a very one-off, in my opinion. To me, the overriding factor is the size of the building and the distance from the road, that the twenty (20) percent, the extra ten (10) feet will make a difference, I think visibly, make it more visibly appealing and make it a little bit more visible from the road, so, that's why I'm gonna vote against...

LARRY O'SULLIVAN: Against the motion?

MARK OFFICER: Against the motion, yes. So...but that's me.

BARBARA DILORENZO: Well, my feeling is I happened to be there today, on that road, across the street and, to me, it's like I didn't have any problem reading the sign. You know, so that's my...that's how I feel about it.

MARK OFFICER: Okay.

BARBARA DILORENZO: But, you know, like I say, I do think it can be accomplished by lowering it. I'm sure they can come up with some kind of, you know, that will make it look nice. You know?

LARRY O'SULLIVAN: And I don't think the clapboard would be an issue because they paint the background anyway.

BARBARA DILORENZO: Yeah, I...

LARRY O'SULLIVAN: Or put up a square or something. Yves, any thought?

YVES STEGER: No, I think I've expressed my opinion. I'm gonna vote against denying...

MARK OFFICER: Okay.

YVES STEGER: ...for the same reason. But...

MARK OFFICER: Alright, so I think we're ready.

BARBARA DILORENZO: Okay.

MARK OFFICER: Alright, all those in favor of the motion on the table, say 'aye.'

LARRY O'SULLIVAN: Aye.

BARBARA DILORENZO: Aye.

MARK OFFICER: Those opposed? Aye.

YVES STEGER: Aye.

MARK OFFICER: Okay, so it's a two (2) to two (2) split vote and it's denied.

YVES STEGER: If that's the case, I show 'granted' because I'm...?

MARK OFFICER: You denied, yeah you put 'denied.' So, on the voting sheet, you would check...

JIM SMITH: Could you entertain another motion at this point?

MARK OFFICER: We already voted.

JIM SMITH: I mean, you voted but it's a deadlock.

YVES STEGER: No.

LARRY O'SULLIVAN: No, a two (2) to two (2) is a deny.

YVES STEGER: It doesn't pass. That's equivalent to being denied.

MARK OFFICER: We need a vote of three for it to pass.

CATHY CHAMPAGNE: I'm actually curious, if you don't mind me asking. If you had first asked for a motion to approve and somebody had made a motion to approve and somebody had second the motion...

LARRY O'SULLIVAN: It would have accomplished the same thing.

YVES STEGER: It would have been two (2), two (2) and you don't have a majority of three (3).

LARRY O'SULLIVAN: It would have been two (2), two (2), it fails.

MARK OFFICER: Yeah.

CATHY CHAMPAGNE: So...

LARRY O'SULLIVAN: So if it was to deny or approve...

CATHY CHAMPAGNE: Well, excuse me, I just wanted to ask the question. So, if the motion is to approved and it's two (2) to two (2), it's denied?

LARRY O'SULLIVAN: Right.

MARK OFFICER: Correct.

CATHY CHAMPAGNE: Okay, that's what I was...

MARK OFFICER: Yeah.

CATHY CHAMPAGNE: I was just...

MARK OFFICER: Yeah.

CATHY CHAMPAGNE: I think I had the same...I think I had the same...

JIM SMITH: But I think on other nights, when you didn't get one to pass, you then entertained a new motion and...

MARK OFFICER: I don't know what it would accomplish.

LARRY O'SULLIVAN: Two different things.

MARK OFFICER: I think we're split, two (2) to two (2), no matter how we look at it.

YVES STEGER: Yeah.

MARK OFFICER: I don't see any of is budging. Okay, so on the voting sheet, if you are against this request, you're gonna vote 'denied,' so, in other words, Barbara...

LARRY O'SULLIVAN: The request is denied.

JAYE TROTTIER: The motion, actually, it's considered that the motion fails for lack of a majority...

MARK OFFICER: Right.

JAYE TROTTIER: ...rather than technically being denied.

MARK OFFICER: Okay.

JAYE TROTTIER: That's the way that the cell tower case went, when they...

MARK OFFICER: Right. Okay.

JAYE TROTTIER: And that's what Bart said, it just fails for lack of majority.

MARK OFFICER: Alright.

RESULT: THE MOTION TO DENY THE AREA VARIANCE FAILED FOR LACK OF A MAJORITY.

RESPECTFULLY SUBMITTED,

LARRY O'SULLIVAN, CLERK

TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

APPROVED APRIL 16, 2008 WITH A MOTION MADE BY LARRY O'SULLIVAN, SECONDED BY BARBARA DILORENZO AND APPROVED 4-0-2 (NEIL DUNN & VICKI KEENAN ABSTAINED AS THEY HAD NOT ATTENDED THE MARCH 19, 2008 MEETING).