

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

DATE: OCTOBER 15, 2014

CASE NO.: 10/15/2014-2

APPLICANT: JBY REALTY GROUP, LLC
37 BEACON HILL ROAD
WINDHAM, NH 03087

LOCATION: 150 NASHUA ROAD, 6-65A, C-I WITHIN THE ROUTE 102 PERFORMANCE
OVERLAY DISTRICT

BOARD MEMBERS PRESENT: JIM SMITH, CHAIR
JIM TIRABASSI, VOTING MEMBER
ANNETTE STOLLER, VOTING ALTERNATE
JACKIE BENARD, ACTING CLERK

REQUEST: VARIANCE TO ALLOW AN INCREASE IN AREA FOR AN EXISTING
FREESTANDING SIGN WHERE THE SIZE IS OTHERWISE RESTRICTED TO 50
SQUARE FEET BY THE PROVISIONS OF THE ROUTE 102 PERFORMANCE
OVERLAY DISTRICT, SECTION 2.6.1.7.6.5.3.2.

PRESENTATION: Case No. 10/15/2014-2 was read into the record with ten previous cases
listed.

JIM SMITH: Who will be presenting?

JAY YENNACO: My name is Jay Yennaco. I'm the owner of 150 Road, JBY Realty Group, LLC. I apologize for all the denied variances that made you sick there, but none of which were mine. I purchased the building in 2007. At that time, just to give you a very brief...because I know it's very late, and I can appreciate that. A very brief overview, I purchased the building in 2007 after the building had been constructed for a nursery and garden center. At that time, I...that's when we put up this sign in 2007 through the permitting process. At that time, I changed the use of the building to a more tenanted type use building. We had multi-tenants in the building, so that when I constructed the sign for those uses as you can see. Since that time, you know the economy has gone up and down, we've had some tenants in there in and out and so forth, and we're lucky enough to have the building full at this point. When that happened, we had an additional tenant that moved into an additional space, and I ran out of room on the sign at that time. I have a...if you look, I believe you have in front of you two pictures (Exhibits A, B & C), one is an existing picture, and one is a picture that was altered. The existing picture shows spaces on the very bottom. Says Tri-Tempo Karate \$49.00 for four weeks, and the proposed sign with the additional area is where it has a sign where it says the new tenant sign. What we've done is I've removed the reader board, and used that space, which I'm allowed to do for my new

46 tenant. When that time happened, the tenants I have in the building really wanted the letter board. They've
47 been using it, and you can see the use for it obviously was set. The sign has quite a setback from 102, so it's
48 tough to see from the road anyway, and this message reader board is really instrumental to their business. So
49 I'm really before you today to try to add an additional section below my current sign now to add back in that
50 message reader board. I'm a little confused here, and maybe the Board can clarify that, or Richard can clarify
51 that for me. This sign was put in in 2007, and my understanding was that I had the ability, and was allowed at
52 that time up to 65 square feet? Even when I went...filled out my variance application a month ago, I was told
53 that I had 65 feet that I could use, and my proposal was going to bring me to the point where I would need a
54 variance today for 5.67 feet to add that piece in. Just about ten days ago, I got a phone call saying that I'm in
55 the 102 Overlay District, which I'm not sure what that was, and did I still want to go through with my
56 application, and I said yes, I do from Mr. Trottier. Does that sound right?

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58 RICHARD CANUEL: Jaye called you?

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60 JAY YENNACO: Yup, Jaye called me, and I said yes this is where I'm at of course I want to go through with it.
61 Then I received six or seven days ago a...updated agenda saying I was in this Overlay District, and I was only
62 allowed 50 feet. So I'm a little confused where I'm at here? Whether I'm allowed 65 feet, or I'm allowed 50
63 feet. Because if I'm only allowed 50 feet, I have a pre-existing non-confirming sign? Unless this Overlay
64 District, I don't know when it went into effect?

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66 ANNETTE STOLLER: That's a good question?

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68 JIM SMITH: Richard do you want to address that?

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70 RICHARD CANUEL: What am I addressing?

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72 JIM SMITH: When did the Overlay District...

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74 [Overlapping comments]

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76 JAY YENNACO: I guess my question is when did the Overlay District go into effect?

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78 RICHARD CANUEL: Ah, okay, good question?

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80 JAY YENNACO: Otherwise, it's...

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82 [Overlapping comments]

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84 JAY YENNACO: ...I just want to know if it's a pre-existing?

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86 JIM SMITH: Okay, he's looking up the...

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88 [Overlapping comments]

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90 RICHARD CANUEL: That may take me some time.
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92 JIM SMITH: Yeah. If your sign was installed before the Overlay District, and it was over the 50 square
93 feet...once the Overlay District went into effect, it became a...
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95 JAY YENNACO: Pre-existing non-conforming, correct.
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97 JIM SMITH: ...non-conforming, yup. I think that's what's you're gonna...he's going to be able to show that
98 they...
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100 JAY YENNACO: Just looking at the timeline of when that was? To see if it was...just to see where I'm at, I
101 guess?
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103 JIM SMITH: How tall is the sign?
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105 JAY YENNACO: I don't know?
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107 ANNETTE STOLLER: Fairly tall?
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109 JAY YENNACO: What I do know is in 2007, we went through the process with...you know, I believe this office
110 to raise a sign permit? At the time, the sign was...we had architectural drawings by the sign company and so
111 forth. It was presented.
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113 ANNETTE STOLLER: May I just...?
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115 JAY YENNACO: If I had to give you a rough number, I can't. To the top of the actual...above where it says
116 Karate before the triangle portion would be 10 feet, and I would scale that piece in between is 2.5 to 3 feet to
117 the point. I'd say its 12.5 feet tall.
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119 JACKIE BENARD: And that is a non-lit sign?
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121 JAY YENNACO: It is an illuminated sign from the inside.
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123 JACKIE BENARD: Okay, so it's illuminated.
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125 JAY YENNACO: The message reader board that I'm looking to add would be non-illuminated.
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127 JACKIE BENARD: Okay, so the only thing that is illuminated is the 150 Nashua Road portion?
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129 JAY YENNACO: No, no that's the actually thing that isn't illuminated.
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131 JACKIE BENARD: Is not illuminated?
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133 JAY YENNACO: The actual tenant signage...

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JACKIE BENARD: Yup.

JAY YENNACO: ...are all illuminated from the inside.

JACKIE BENARD: Oh, okay, so everything...

JAY YENNACO: It's an interior illuminated sign.

JACKIE BENARD: Okay.

JAY YENNACO: A box sign, yup.

ANNETTE STOLLER: Jay, how many feet back from the road is that? I've seen the sign, I've just...

JAY YENNACO: Well, the Route 102, and the State have quite a buffer between the edge of the road and the middle of the road. I'll say into my fence, if you will, is a...

ANNETTE STOLLER: That's why I asked.

JAY YENNACO: ...white picket fence there.

ANNETTE STOLLER: Yeah.

JAY YENNACO: It's going to be 30 feet from the edge of the pavement, so I've got to have a 50 foot set back from to that fence from the center line of the road. Then from that fence to that sign, we're looking at 8 feet. I have 58 feet from the center of the road anyway, 58 plus, not minus.

JIM SMITH: So your addition would actually bring the sign, the bottom of the sign down?

JAY YENNACO: It wouldn't...in visual look, yes, it would bring the bottom of the sign down. It wouldn't go up in conformity. I wouldn't change site distance, or site line in any way. The site distance for this sign, or site line for traffic in and out, it doesn't...

JIM SMITH: Because, in the Overlay District there is a 10 foot max.

JAY YENNACO: A 10 foot max?

ANNETTE STOLLER: In the height.

JIM SMITH: One the height.

JAY YENNACO: Is there, okay. It potentially could be 10 feet? I would be lying if I said I thought it was 10 feet or less. I would think its 10 feet plus. Just based on the fact that those panels are 18 inches, so 2 of the panels

178 are 6 feet. The bottom 2 are 6 feet, and then I believe I have about a 4 foot clearing, so I have 10 feet then I
179 have the peak.
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181 ANNETTE STOLLER: So the size of the sign you are requesting would be?
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183 JAY YENNACO: 70.67 feet.
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185 ANNETTE STOLLER: So substantially...
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187 JAY YENNACO: Where I believe, 65 is allowed?
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189 ANNETTE STOLLER: 50 feet...
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191 [Overlapping comments]
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193 JAY YENNACO: Where my understanding was 65 feet was allowed? If I had wanted to add less than 5.33 feet,
194 I wouldn't have to do anything based on when I visited the Town office. We thought the understanding was it
195 was 65 feet.
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197 ANNETTE STOLLER: Um hum.
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199 JAY YENNACO: So I could have technically...I don't think it would have worked, but I could have put one reader
200 board at the bottom, but realistically, if you read what's on that reader board I have now what would they
201 write? There'd be nothing to write. You know, it would be so minimal, so it really doesn't do it justice.
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203 ANNETTE STOLLER: Hum.
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205 JIM SMITH: What's the verdict?
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207 RICHARD CANUEL: It looks like 2002 was the year of the Route 102 Performance Overlay provisions.
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209 ANNETTE STOLLER: It looks though it's older?
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211 RICHARD CANUEL: So if the sign is larger than the 50 square feet that's allowed by the Overlay District then it
212 would be considered an existing non-confirming sign which again, by the sign provisions of our ordinance, if
213 it's an existing non-confirming. You can't do anything with that sign without a variance. Regardless of the
214 size.
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216 JAY YENNACO: Okay, just so the Board's aware that was not my understanding, and Richard did help me...you
217 know in trying to figure that. I just...just so you know that wasn't my understanding.
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219 JIM SMITH: Okay.
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221 JAY YENNACO: My understanding was 65. I mean, I currently have 58.67, and that was when I put the sign in
222 in 2007, I was allowed...told I was allowed 67, so. Anyway, the next question I guess I have before I get into
223 five point and so forth is how do we measure...how does the Town measure the square footage of this sign,
224 i.e., the peak?
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226 ANNETTE STOLLER: Hum.
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228 JIM SMITH: I'll ask Richard for that.
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230 RICHARD CANUEL: As far as the sign area goes, we just measure the sign face. As far as the sign height goes,
231 the height would be to the tallest part of the sign.
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233 JAY YENNACO: So my triangle at the top would be considered directional?
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235 RICHARD CANUEL: Not necessarily directional, but that would be included as part of the overall sign height.
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237 JAY YENNACO: Height, but not, not...
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239 RICHARD CANUEL: You don't have any advertisement there.
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241 JAY YENNACO: But I'm looking for a variance from square footage from sign area correct?
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243 RICHARD CANUEL: That's correct.
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245 JAY YENNACO: So I guess maybe this is easily solved because my sections are 18 inches by 6 feet wide, which
246 means I have 4 sections which means I have 48 square feet. I just think the Town may have the wrong square
247 footage?
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249 ANNETTE STOLLER: You also probably have dividers between that?
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251 JAY YENNACO: Yeah, they do abut though, but if you look at it...I mean the dividers are a fraction, so even if I
252 added in 2 feet for them, I'd be...
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254 ANNETTE STOLLER: That's a lot.
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256 JAY YENNACO: ...way over, you know way over.
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258 JIM SMITH: Are you trying to...?
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260 JAY YENNACO: I guess now, do I need a variance? If I've got 48 square feet now? If that's the case...
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262 JIM SMITH: Well, no, no...
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264 JAY YENNACO: ...the Town has on record that I have 58.67 feet being used right now, and I guess I question
265 that?
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267 ANNETTE STOLLER: We must have counted your peak? Wouldn't you think?
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269 JIM SMITH: No, the frame doesn't count. Okay, if you simply look at the service area...you're saying that's...?
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271 JAY YENNACO: 48
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273 JIM SMITH: ...approximately 48 feet? However, since you're in the Overlay District, you're only allowed 50,
274 which gives you 2 square feet to work with.
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276 JAY YENNACO: Right. So in that case, I'd be looking for a variance for 10 square feet which, I guess in this
277 case, I'm looking for 11 anyway. I put 11 so...for the divider situation that Annette just mentioned, so I
278 didn't...I wasn't short by 3 inches.
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280 JIM SMITH: Richard, do you agree with that, or no?
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282 RICHARD CANUEL: Um, I don't have the file in front of me so I don't...I'm not sure what we show as the
283 existing square foot of that sign. I don't have any reason to believe that Jay would know otherwise?
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285 JAY YENNACO: Yeah, I'm only...I'm doing some rough numbers here on what I just told you with 48 feet, but
286 58.67 feet, I was guided by Richard's office that that's what they have. So I believe that's what they have? I
287 also, I'm sure when we open up that file it's going to show that I was given a sign permit for up to 65 feet? I
288 guarantee, I was given a sign permit for...
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290 JIM SMITH: No, no, no typically you'd get a permit for whatever you asked for.
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292 JAY YENNACO: Um hum.
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294 JIM SMITH: If the limit was 65, you could have gone up to that...
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296 JAY YENNACO: Correct.
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298 JIM SMITH: ...but that doesn't necessarily mean you got a permit for the 65.
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300 JAY YENNACO: Correct, at the time, when I was asked for the permit, it was...the permit allowed me up to 65
301 feet, and I probably came up with this architectural drawing that gave me this square footage. So I guess
302 before I read my five points, and I just want to be clear. That I'm looking for a total of...I guess I'm looking for
303 a total now of...based on the Town's numbers 70.67 feet? Based on the actual ...what I really have of 60 feet?
304 Because I think we've got an issue with where the extra square footage came up with? I don't mind asking for
305 the variance at 70.67 feet? Although, it's 10 square feet more than I think I need?
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307 [Overlapping comments]

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ANNETTE STOLLER: We need more information.

JIM SMITH: You know given the lateness of the hour, and the confusion over what we're really talking about, I'd like to make a proposal we continue this to the next month? Where we could get some better measurements and it would be more accurate about what we're talking about.

JAY YENNACO: And I apologize for kind of coming up for all these changes in measurements here, but just so you understand the timeliness of me just getting this notice of this Overlay District was late, so I wasn't able to kind of put everything together. Other than now I'm kind of going back and doing these numbers, which I've always going to present the numbers of...you know, I have 58.67, I could use up to 65 based on the permitting.

JIM SMITH: Yeah.

JAY YENNACO: I really need 5.67, and that looks like a small number to the Board. It's less than 8 percent. That's what I'm asking for. Now with this Overlay District that was apparently there in 2002, and now it's...you know 12 years later, and I'm finding out about it 6/7 days ago. It might be 10, I don't mean to say to Richard that I didn't get it in a timely manner. It think that it just...it just kind of came up to this office that I'm in Overlay District.

JIM SMITH: Okay.

JAY YENNACO: So my apologies for saying all these numbers and working it through, and I certainly can have some clarity for you.

JIM SMITH: I think I'd be more comfortable for you to do that. Would everybody else?

ANNETTE STOLLER: I'm comfortable.

JACKIE BENARD: Mr. Chairman, I'd like to make a motion for a continuance of case number 10/15/2014-2 to November 19th.

JIM SMITH: Okay, do I have a second?

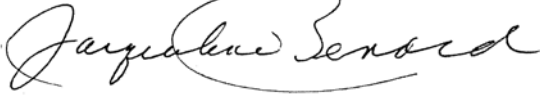
JIM TIRABASSI: Second.

JIM SMITH: All those in favor?

ALL: Aye

RESULT: THE MOTION TO CONTINUE CASE NO. 10/15/2014-2 TO NOVEMBER 19, 2014 WAS APPROVED, 4-0-0.

RESPECTFULLY SUBMITTED,



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JACKIE BENARD, ACTING CLERK

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

APPROVED APRIL 15, 2015 WITH A MOTION MADE BY NEIL DUNN, SECONDED BY JACKIE BENARD AND
APPROVED 5-0-0.