

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

DATE: MAY 16, 2012

CASE NO.: 5/16/2012-5

APPLICANT: DERRY PLAZA LLC
C/O ALTID ENTERPRISES LLC
285 BILLERICA ROAD, SUITE 101
CHELMSFORD, MA 01824-4120

LOCATION: 10 NASHUA ROAD; 10-139; C-II

BOARD MEMBERS PRESENT: JAMES SMITH, ACTING CHAIR
LARRY O'SULLIVAN, VOTING MEMBER
JAY HOOLEY, VOTING MEMBER
JAMES TOTTEN, VOTING ALTERNATE
NEIL DUNN, CLERK

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

REQUEST: VARIANCE TO ALLOW A WALL SIGN OF 120 SQUARE FEET WHERE A
MAXIMUM OF 40 SQUARE FEET IS PERMITTED BY SECTION 3.11.6.4.3.2.1.

PRESENTATION: Case No. 5/16/2012-5 was read into the record with eight previous cases listed. The Clerk also read Exhibits "A" and "B" (letters from abutters) into the record.

JIM SMITH: Would you please identify yourself?

TYLER DEAN: Good evening, my name is Tyler Dean. I'm here representing Advance Auto Parts. First, I'd like to thank the Board for giving me the opportunity to present my requested variance, especially given the time of night that we're in. I'd especially like to thank Miss Trottier for helping me in guiding of the application process. There were a few hiccups on my end and she helped me through them, so thank you. It is only after careful consideration and thorough research into this site and code regulations that Advance Auto Parts has decided that a signage variance is necessary in order to properly identify the store within the Derry Plaza shopping center. As previously mentioned, the Advance Auto Parts store will be located at 10 Nashua Road, within the Derry Plaza shopping center. The store will be assuming the space of three (3) tenant spaces, the first of which is currently vacant and it's the space that directly abuts the TNT Fireworks. The second space was formerly occupied by Hair Encounters. And the third space was formerly occupied by the Laundry Room. The total square footage of the proposed Advance Auto Parts store will be seven thousand (7,000) square feet. The information I previously submitted referenced a square footage of five thousand five hundred (5,500) square feet. That is incorrect and I apologize for the error. The store frontage will measure sixty nine (69) feet, ten (10) inches from left to right, which is the entire space between Subway and TNT Fireworks, if

46 you can visualize that. Under Section three of the Town of Londonderry zoning ordinance pertaining to
47 signage, current code is such that each tenant which is part of a multi-tenant commercial building is permitted
48 one wall sign not to exceed forty (40) square feet. I'd like to mention that the typical sign used on Advance
49 Auto Parts buildings is a thirty six (36) cloud sign that utilizes the same red architectural feature as the sign
50 proposed before you today. That sign is very large and I didn't even want to waste your time with proposing
51 that sign. So the sign that I am requesting is atypical. It's not what we normally request, but given the area,
52 the historical aspect, which you just referenced [see Exhibit "A"], we kind of thought that would be egregious
53 and ridiculous, frankly, to even request that, so...Instead, we are proposing a thirty (30) inch yellow panel
54 letter set which utilizes Advance Auto Parts trademarked red panel architectural feature behind the sign. The
55 total square footage of the sign, including the red panels, which is included in the calculation, measures one
56 hundred twenty (120) square feet, with the letters themselves eighty eight (88) square feet. I know have
57 supplemental artwork that I'd like to present to the Board if I could. May I approach?
58

59 JIM SMITH: Sure.
60

61 TYLER DEAN: The artwork that I initially submitted, and I'll go through this in order so you can actually follow
62 along [see Exhibit "C"], but if you can first turn to page four (4). Without really looking at what I've got
63 detailed in the picture, what I'm trying to do is...the artwork that I initially submitted, there was initial thinking
64 with Advance Auto Parts and the landlord per the lease agreement that Advance Auto Parts would build some
65 type of an ethos structure on the sign band. And essentially, it would...what we found to be was it not be
66 harmonious with the rest of the sign band of this plaza. It was approved by the landlord, but after further
67 review, we decided that that was not a good look. It just didn't go...it didn't flow with the rest of the tenants.
68 So the artwork that I've just given to you, the sign band does not have that ethos that the previous artwork
69 did, so that's the major change there. So, just to preface the artwork that I'll get into. If you can go back to
70 page two (2), I'll actually go in order now, this is an aerial site plan that shows where the wall sign will go.
71 Clearly, obviously, it's on the front of the building. Sign "B" is a code allowed multi-tenant panel that will be
72 placed on the Derry Plaza freestanding sign. If you can flip to the next page, this gives you a representation of
73 kind of the footprint of the building that Advance Auto Parts tenant space...with that tenant space outline,
74 excuse me. And this is the space that consists of the seven thousand (7,000) square feet. The next page
75 shows the front of the Advance Auto Parts store. The top image represents current site conditions with the
76 frontage called out at sixty nine (69) feet, ten (10) inches. The image at the bottom illustrates the code
77 allowed forty (40) square foot wall sign. As you can see from the photo, the sign is not proportional to the
78 sign band. It appears largely consumed by the dead space of the remaining area of that sign band. And the
79 following page, page five (5), this shows the sign that is being requested. As you can see, when comparing the
80 requested sign to the code allowed sign on the previous page, the requested sign is much more proportional
81 to the store's sign band. It's also more aesthetically impactful and tasteful and also serves as a better
82 identifier for that store. Page six (6) shows a dimension comparison of the code allowed sign at the top and
83 the requested sign at the bottom, just to kind of give you an up close and personal view of the difference. And
84 again, the letters themselves are eighty eight square feet. But with the panels, it measures out to one twenty
85 (120). Page seven (7) compares and contrasts the percentages of the two (2) signs in terms of sign band and
86 store frontage occupancy. The code allowed sign at the top constitutes seven point four (7.4) percent of the
87 sign band and three point one (3.1) percent of the overall store frontage and that's that sixty nine (69) feet,
88 ten (10) inches. The sign requested consumes twenty two (22) percent, roughly twenty two (22) percent of
89 the sign band and nine point two (9.2) percent of the overall store frontage. In short, Advance Auto Parts is
90 seeking a sign that would utilize fourteen (14) point eight (14.8) percent more sign band area than what is

91 currently permitted, as well as an increase of six point one (6.1) percent of the overall store frontage.
92 Advance Auto Parts feels these proposed percentage increases are minimal to the property and sufficient to
93 properly brand and identify the store. And if you can flip to page eight (8), I really don't like taking the
94 approach of "Well, they have it, we should be allowed it," so I'm not gonna do that. This is simply referencing
95 signs that you are probably familiar with in the community. They're auto parts signs. Excuse me, auto store
96 signs. The image on the left is NAPA Auto Parts and this sign is approximately one hundred seventeen (117)
97 square feet. And again, this is not to point fingers or anything and along those lines. This is just simply to kind
98 of get you more familiar with the sign that we're actually proposing. What to compare it to with something
99 you might be more familiar with. So again, this sign is one hundred and seventeen point one-three (117.13)
100 square feet. The percentage of the sign band occupied by the sign is seventy six point three four (76.34)
101 percent. And the amount of building frontage occupied by the sign is twelve point seven (12.7) percent.

102
103 JIM SMITH: Where are these two locations?
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105 NEIL DUNN: Derry.
106

107 LARRY O'SULLIVAN: Crystal Ave in Derry.
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109 JIM SMITH: That's what I thought.
110

111 NEIL DUNN: I tried finding them before the meeting and my GPS...I'm not from the area, obviously, so I
112 couldn't find it.
113

114 JIM SMITH: So what you're showing us on this page has nothing to do with Londonderry.
115

116 LARRY O'SULLIVAN: As a matter of fact, he's picking out one of the worst looking places in Derry, next town
117 over.
118

119 TYLER DEAN: I didn't know the difference...obviously, I know there's different jurisdictions with Derry and
120 Londonderry, but honestly, I kind of thought that it was a same general area.
121

122 JIM SMITH: They're not.
123

124 TYLER DEAN: Okay.
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126 JIM SMITH: Their rules have nothing to do with our rules.
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128 TYLER DEAN: Okay. Again, this is not...I'm not trying to get into numbers specifically, even though they're
129 listed here. It's just more of a visual representation of something you might be more familiar with. And again,
130 I do apologize. I thought these were closer to the actual site. So, with that being said, on page nine (9), this is
131 just a representation of the multi-tenant panel that is allowed. That measures just over nine (9) square feet.
132 And then finally, the last page is just a spec page of the wall sign that I'm requesting. With that said, I would
133 like to close with the five points. Point one, the variance will not be contrary to the public interest. The
134 granting of the variance being sought will in no way be contrary to the public interest. Rather, it will
135 beneficially serve the public's interest by providing a central advertising and identification for goods and

136 services provided by the tenant for the public. The variance requested is for additional wall sign square
137 footage which will only serve to better notify and alert the public of the tenant's location and presence. Point
138 two, the spirit of the ordinance is observed. The spirit is most certainly observed and carried out with the
139 granting of the requested variance. It is Advance Auto Parts belief that the variance being sought in no way
140 unjustifiably defies the current regulation in place of allowing forty (40) square feet of wall signage for each
141 tenant located within a shopping center. It is important to note that the granting of the requested variance
142 would result in one hundred twenty (120) square feet of signage which is not a single square foot more than
143 what the tenant spaces would be allowed if they were separate businesses. In addition, the definition of the
144 Commercial-II zone in which this property lies is defined, and you're probably more familiar with this than I
145 am, it's defined within the zoning ordinance as primarily intended to encourage the development of business
146 areas designed to serve the motoring public. Perhaps no perspective tenant could meet this requirement and
147 desire for serving the motoring public more so than an auto parts store. Point three, substantial justice is
148 done. The granting of the requested variance would provide relief, a/k/a substantial justice, from the
149 unnecessary hardship which Advance Auto Parts feels would result in the denial of said variance. Advance
150 Auto Parts believes the trademark signage that is being respectfully requested is necessary in order to
151 maximize site visibility due to the store's location and size. While recognizing and understanding the current
152 regulation which limits the amount of wall sign square footage, it is strongly believed that due to the
153 circumstances referenced herein, the granting of the requested variance would be optimal. Point four, the
154 value of the surrounding properties are not diminished. The granting of the requested variance will in no way
155 diminish the value of surrounding properties. To the contrary, the granting of the variance would no nothing
156 but help increase the potential business for surrounding tenants and as a result, provide a boost to their value.
157 The location in question is currently three (3) vacant tenant spaces and located within a commercial shopping
158 center. The proposal will allow for this tenant to maximize its potential, both initially and long term, while
159 simultaneously improving and increasing potential business for adjoining tenants. Point five, literal
160 enforcement of the provisions of the ordinance would result in an unnecessary hardship. Advance Auto Parts
161 believes that there are, in fact, special conditions of the property that warrant the granting of the requested
162 variance and to deny the request would result in an unnecessary hardship for the business. The resulting
163 hardship would be an insufficient amount of signage in terms of square footage needed to effectively identify
164 the store with regards to the amount of space being occupied by the tenant, which is again seven thousand
165 (7,000) square feet. The distinguishing factor for the property in question is the large amount of tenant space
166 and store frontage that will be acquired and occupied by the Advance Auto Parts store. And it is hereby
167 deemed by Advance Auto Parts that no fair and substantial relationship exists between the public general
168 proposes of the ordinance provision and the specific application of that provision to the property. And lastly,
169 the proposed use is that of a commercial auto parts store, which coincides with the intention of the property's
170 attached commercial zoning, excuse me, Commercial-II zoning, and existence within a shopping center. With
171 that being said, I'd be happy to answer any questions.

172
173 JIM SMITH: Any questions?

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175 LARRY O'SULLIVAN: Sure. Richard, do we have a relationship in our ordinances that measures or that
176 quantifies, perhaps, between the size of a building or a tenant space in the building to a sign?

177
178 RICHARD CANUEL: No. Not really. We just have specific requirements, you know, limiting the size of specific
179 signs.

181 LARRY O'SULLIVAN: Mm-hmm. And we're talking about wall signs here.
182
183 RICHARD CANUEL: Right. Right.
184
185 NEIL DUNN: And we run into this a lot where, as the applicant has presented here, that, you know, three (3)
186 little signs can be put up, but one (1) with the same square footage can't. No, I'm just saying, you know, I
187 mean, theoretically, it's...
188
189 LARRY O'SULLIVAN: So the Alamo store, then, which is bigger than the rest of the plaza combined should have
190 more signage than the rest of the...?
191
192 NEIL DUNN: No, no. I'm just making a point that if it was three (3) small tenants...
193
194 LARRY O'SULLIVAN: That's what it is.
195
196 NEIL DUNN: ...you would have these choppy signs that would be the same size as someone who takes up
197 three (3) empty spaces. I'm just...
198
199 LARRY O'SULLIVAN: Well, that's why I asked if there's a relationship...
200
201 NEIL DUNN: Right.
202
203 LARRY O'SULLIVAN: ...between the size of the building, or the tenant, or the tenant module, to the sign size.
204
205 NEIL DUNN: Oh, okay, I see what you're getting at. Yeah.
206
207 JIM SMITH: But I think what Neil is saying, on the practical note, if you have three (3) tenants in that same
208 space, you would end up with a hundred and twenty (120) square feet.
209
210 LARRY O'SULLIVAN: I understand.
211
212 NEIL DUNN: It would all choppy...
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214 JIM SMITH: Yeah.
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216 NEIL DUNN: ...and different looking and...
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218 JIM SMITH: But since it's only one occupant, you're limited to the forty (40), which used to be fifty (50), which
219 had been reduced to thirty (30), then back up to forty (40).
220
221 TYLER DEAN: Can I also request a pool and daycare? Can I get that?
222
223 [Laughter]
224

225 JIM SMITH: I think part of what I'm suggesting is the...over the years, we have, as a town, decided to limit the
226 size of these signs severely. 'Cause I know when they went from fifty (50) to thirty (30), I couldn't believe it,
227 but that was...they eventually reversed back up to forty (40). But again, we've had this same situation where
228 we have a very limited size of sign for a building...

229
230 TYLER DEAN: Mm-hmm.

231
232 JIM SMITH: ...irregardless of how big it is.

233
234 TYLER DEAN: Mm-hmm.

235
236 JIM SMITH: We had the same problem with Home Depot...

237
238 LARRY O'SULLIVAN: Mm-hmm.

239
240 JIM SMITH: I mean, we had a building that was...a big box and then we had a very limited sign for that. Now,
241 one of the things I was kind of looking at, your plan when you look at it shows eighty eight (88) square feet of
242 just the letters.

243
244 TYLER DEAN: yes.

245
246 JIM SMITH: Without the read background.

247
248 TYLER DEAN: That's correct. The way that I read the code was that the red background is, in fact, included in
249 the calculation of the square footage of the sign. Therefore, the utilization of those red panels, I took to mean
250 that you would count that as the square footage of that sign. So the letters themselves measure eighty eight
251 (88) square feet, whereas the letters with the panels behind them, the size of the letters then wouldn't even
252 matter because at that point, you're looking at the size of the panels and the size of the panels are one
253 hundred twenty (120) square feet. So that's the difference. The letters individ...or not individually, but the
254 letters themselves are eighty eight (88) square feet and the panels are one hundred twenty (120) square feet, which
255 would encompass the eighty eight (88) square feet.

256
257 JIM SMITH: Could you live without the panel?

258
259 TYLER DEAN: I can say it's something that would be considered on our part.

260
261 JIM SMITH: I'm not saying we'd go there, but I just...

262
263 TYLER DEAN: Sure. Yeah, no, that's...

264
265 JIM SMITH: ...throwing that out just...

266
267 TYLER DEAN: And I wouldn't...I would not flat out say "no" to that. That's something that would be looked at.
268 But the red panels, we prefer those. They are part of our trademark signage. They are just a flagship for

269 Advance Auto Parts. When you see an Advance sign, you think of the red panels and the yellow or red
270 channels and I guess along those lines, and that being said, that's why the red panels are brought before you.
271
272 LARRY O'SULLIVAN: And you have a picture here of "A," the thirty (30) inch yellow channel letter set? That
273 has red background, yellow letters, and the racing flag, the finish line flag. And it doesn't have...
274
275 TYLER DEAN: I'm sorry, what image are...?
276
277 LARRY O'SULLIVAN: Page four (4) of nine (9).
278
279 TYLER DEAN: Mm-hmm.
280
281 JIM SMITH: Well, that's essentially the same as six (6) of what you just submitted.
282
283 NEIL DUNN: Oh, no, it's...that's what we have on the computer. The original submittal. Oh, yeah, page...
284
285 JIM SMITH: Same basic thing.
286
287 TYLER DEAN: Sorry, I'm a little confused...
288
289 LARRY O'SULLIVAN: Doesn't it measure a lot less, though?
290
291 NEIL DUNN: Page [indistinct] that paper handout. The upper right.
292
293 JIM SMITH: No, that's eighty eight (88) square feet.
294
295 LARRY O'SULLIVAN: Okay, eighty eight (88) versus a hundred and twenty (120) square feet.
296
297 JIM SMITH: Yes. Yeah. Where is the closest store to Londonderry that you presently have?
298
299 TYLER DEAN: I would assume Manchester but I would not go on record of saying that I honestly know that
300 answer. I'm trying to think...
301
302 RICHARD CANUEL: There's one in Raymond.
303
304 [Laughter]
305
306 TYLER DEAN: Yeah, I can't answer that.
307
308 JIM SMITH: The point being, how significant is that...?
309
310 NEIL DUNN: Brand image.
311
312 JIM SMITH: That image, in other words. I can't say that I've ever seen that sign before.
313

314 TYLER DEAN: Okay.
315
316 JIM SMITH: I'm not saying...I just never saw it.
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318 TYLER DEAN: Yeah, I don't know what...
319
320 JIM SMITH: Whether it had red or not on the background, to me, it wouldn't make any difference.
321
322 TYLER DEAN: Okay.
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324 JIM SMITH: But that's the point I'm trying to...
325
326 TYLER DEAN: Okay.
327
328 NEIL DUNN: And Richard, if they were to paint that rectangle on that existing roof, behind that, we'd be
329 looking at eighty eight (88) square feet if he was just putting up the letters?
330
331 RICHARD CANUEL: You mean if they just painted it red on the face of the building and then mounted the
332 letters on that face? Yeah, I guess we can consider that, you know, building face, but if you look at the
333 definition in our ordinance, the requirements for the measurement of wall signs, it says it includes the
334 lettering, symbols together with the background, so whether you paint it on the building or not, that's
335 [indistinct] background of the sign.
336
337 NEIL DUNN: Well, that's what I'm looking for. I mean, the background becomes the background, so...
338
339 RICHARD CANUEL: Yes.
340
341 NEIL DUNN: ...unless it's all the same color, then...? You know, I'm just...
342
343 RICHARD CANUEL: Yeah.
344
345 TYLER DEAN: Another point I guess I'd like to make is this roof is not flat. Or, excuse me, this sign band is not
346 flat. It's a mansard type roof, so it's actually angled and what we would do is basically mount the panels much
347 in the way that that Subway cabinet is mounted.
348
349 NEIL DUNN: Mm-hmm.
350
351 TYLER DEAN: Exactly. So that's...I just didn't want you to think that that was a flush sign band.
352
353 NEIL DUNN: No, I was just thinking you would...the look would be the same.
354
355 TYLER DEAN: I know, yeah. I know what you're saying.
356
357 NEIL DUNN: So...
358

359 TYLER DEAN: Okay.
360
361 NEIL DUNN: But that looks like it would be counted anyway because it is making a pronouncement, which...I
362 mean, it makes sense...
363
364 TYLER DEAN: Sure.
365
366 NEIL DUNN: ...I just, again, when those technical...where do we measure and where we don't.
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368 TYLER DEAN: Sure.
369
370 JAY HOOLEY: Richard, if they were the...never minding that they're taking be it two (2) or three (3) bays, if
371 they were the only occupant in this building, the sign of this nature would still be limited to fifty (50) square
372 feet?
373
374 RICHARD CANUEL: If it was just one (1) occupant in that...?
375
376 JAY HOOLEY: One (1) occupant.
377
378 RICHARD CANUEL: It'd probably be a hundred (100) square feet.
379
380 RICHARD CANUEL: That's Commercial-II zone? Yeah, they'd be a hundred (100) square feet. Let me see...
381
382 JAY HOOLEY: Okay, I was at 3.11.6.4.3.2.1.
383
384 RICHARD CANUEL: Yeah, okay, [indistinct]...Yeah, 3.11.6.4.3.2.1
385
386 JAY HOOLEY: 6.4.3.2.1.
387
388 RICHARD CANUEL: Yeah, fifty (50) square feet.
389
390 JAY HOOLEY: Fifty (50). So if they own the entire building as an occ...they'd still only be at fifty (50), not eighty
391 eight (88).
392
393 RICHARD CANUEL: Fifty (50) square feet, right.
394
395 JAY HOOLEY: Okay.
396
397 LARRY O'SULLIVAN: We do get a lot of sign requests.
398
399 TYLER DEAN: I was curious.
400
401 LARRY O'SULLIVAN: And everybody who comes in front of us say, you know, "Our business is gonna go down
402 the tubes if we don't get a big sign and it's gotta be bigger than everybody else's and it's gotta glow and it's
403 gotta move and it's gotta make sounds and smells and [indistinct]."

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TYLER DEAN: Emit smoke.

LARRY O'SULLIVAN: And the issues are really 'How conforming is it to what we want to have,' right?

TYLER DEAN: Right. Right.

LARRY O'SULLIVAN: So, the conforming part of that, whether it's a, you know, the fifty five hundred (5,500) square foot or the hundred thousand (100,000) square foot, it's not up to us to make the determination of what's in the ordinance.

TYLER DEAN: Mm-hmm.

LARRY O'SULLIVAN: It's up to us to make the relief from the ordinance.

TYLER DEAN: Sure.

LARRY O'SULLIVAN: Alright? So everyone else in town, all the other businesses in town, have this requirement.

TYLER DEAN: Mm-hmm.

LARRY O'SULLIVAN: And so the exceptional part of that, as far as I'm concerned, is do you try to hit the five points with your presentation there?

TYLER DEAN: Mm-hmm.

LARRY O'SULLIVAN: And a lot of them have to do with, you know, the profitability or the success of your business as opposed to

TYLER DEAN: That's...I'm sorry, go ahead.

LARRY O'SULLIVAN: As opposed to how conforming is it? Because, you know, we have places, businesses that come in that are constantly packed...

TYLER DEAN: Mm-hmm.

LARRY O'SULLIVAN: ...and a sign rep will come in and say, "We'd like to have a bigger sign." You're already packed...

TYLER DEAN: Mm-hmm.

LARRY O'SULLIVAN: ...I mean, you can't add a floor to your building now...

TYLER DEAN: Sure.

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LARRY O'SULLIVAN: ...I mean, to add more space. To serve more people or to get the motoring public to stop in.

TYLER DEAN: Mm-hmm.

LARRY O'SULLIVAN: You can't...it's not possible. So there's a limit. Somebody else has made the determination that it's gonna be forty (40) or fifty (50) square foot rectangle.

TYLER DEAN: Mm-hmm.

LARRY O'SULLIVAN: Now, everyone else is supposed to live by it and you're supposed to be able to say how is it that your business is gonna be different.

TYLER DEAN: And in response...

LARRY O'SULLIVAN: And I don't see it.

TYLER DEAN: In response to that...

LARRY O'SULLIVAN: [Indistinct] of the building, I don't think that there's a relationship between fifty five hundred (5,500) square feet or thirty thousand (30,000) square feet. Our requirements are the same.

TYLER DEAN: I don't think it's so much the square footage that's the issue. I think it's the linear feet of store front that...

LARRY O'SULLIVAN: Frontage.

TYLER DEAN: ...exactly, and the fact that...I believe the intent of the code is forty (40) square feet per tenant space used. Now, it was brought up by the Board, the fact that we're actually using three (3) tenant spaces, I believe process a unique situation for this particular store. If we were...you know, if I was before you tonight and we actually only taking over one (1) vacant tenant space and I was requesting for additional signage than the allotted forty (40), then I can see where that's definitely an issue. But I guess my main thing is it's the number of spaces we're taking over. It's not just one (1) tenant space and it's the...it's just not proportional. I don't see that. And the length. Subway's allowed 'x' amount of sign, we're allowed this amount of sign. Subway's got very, very, very, very small frontage compared to what we have. And we are expected to adhere to the same, I guess, wall sign requirement as them.

LARRY O'SULLIVAN: Okay, so my question for you...

TYLER DEAN: Mm-hmm.

LARRY O'SULLIVAN: ...would be if the Subway store has two thousand (2,000) square feet and we allow them a forty (40) square foot sign.

494 TYLER DEAN: Mm-hmm.
495
496 LARRY O'SULLIVAN: And you have fifty five hundred (5,500) square feet...
497
498 TYLER DEAN: Mm-hmm.
499
500 LARRY O'SULLIVAN: ...should we allow you a hundred and twenty (120) or some proportion less because they
501 only have two thousand (2,000) square feet?
502
503 TYLER DEAN: Well, see, I'm differentiating square footage from tenant space. I'm not looking at 'x' amount of
504 square feet. You can have a hundred thousand (100,000) square feet and go straight back and you've got,
505 from side to side, twenty (20) feet of linear frontage.
506
507 LARRY O'SULLIVAN: Of frontage, okay.
508
509 TYLER DEAN: Okay? I'm not so much looking at the square footage of the property. I'm looking at the
510 number of tenant spaces that we're taking over. So I'm making a distinction between square footage and
511 number of tenant spaces.
512
513 LARRY O'SULLIVAN: Tenant spaces being the frontage.
514
515 TYLER DEAN: Yeah. The tenant spaces as a whole, as the three (3) together combined, making the one (1)
516 frontage that we would have. So, I do see what you're saying, but I guess I'm just trying to clarify myself. I'm
517 trying to differentiate between square footage of the building and the actual tenant spaces, the individual
518 spaces that we're taking up. I guess that's my clarification on that.
519
520 JIM SMITH: I think one of the problems with that whole line of thought is in this particular building, you have
521 a tenant space of a certain size. You go down the street to another strip mall, you could have a tenant space
522 which is double that.
523
524 TYLER DEAN: Mm-hmm.
525
526 JIM SMITH: And it'd still be considered a tenant space. So, in our ordinance, we're relating it to a tenant
527 space without any definition on how small or how large a tenant space is.
528
529 TYLER DEAN: Mm-hmm.
530
531 JIM SMITH: So what the town has decided is arbitrarily saying if you've got one (1) tenant space, you get forty
532 (40) square feet. Whether it's two thousand (2,000) square feet or five thousand (5,000).
533
534 TYLER DEAN: Mm-hmm.
535
536 JIM SMITH: It's still one (1) tenant space.
537
538 TYLER DEAN: Mm-hmm.

539
540 JIM SMITH: So to try to argue because it's three (3) tenant spaces, you should get a hundred and twenty
541 (120), it doesn't really...
542
543 JAY HOOLEY: That could be square footage wise half of a single tenant space in a different mall.
544
545 JIM SMITH: Right.
546
547 LARRY O'SULLIVAN: And it can also relate to the frontage.
548
549 TYLER DEAN: It could.
550
551 JIM SMITH: Yeah.
552
553 TYLER DEAN: Sure.
554
555 LARRY O'SULLIVAN: That's what I'm saying, is that regardless of how you're measuring it, so...the issue's
556 gonna be...
557
558 TYLER DEAN: Well, I guess I was just looking at the specific...
559
560 LARRY O'SULLIVAN: Tenant scenario, yeah.
561
562 TYLER DEAN: Yeah.
563
564 NEIL DUNN: [?]: Replacement value.
565
566 LARRY O'SULLIVAN: That's really what it is, is replacement...
567
568 NEIL DUNN: But at least we don't end up with that look, that...
569
570 [Laughter]
571
572 NEIL DUNN: And that's our intent, is not to end up...
573
574 JIM SMITH: Okay, as an aside...
575
576 TYLER DEAN: Mm-hmm.
577
578 JIM SMITH: ...I would also request that if this comes to fruition and you do, in fact, occupy this thing, when
579 you have your grand opening, would you please check with the Zoning Officer on what the requirements are
580 for temporary signage...
581
582 TYLER DEAN: I...
583

584 JIM SMITH: ...and make sure you conform with those things because most of the...
585
586 TYLER DEAN: [indistinct] that's a bit of an issue.
587
588 JIM SMITH:occupants of new buildings or reoccupying or grand openings, for some reason, never seem to
589 do that.
590
591 TYLER DEAN: I will make sure that, if it's not myself directly making contact, someone will.
592
593 JIM SMITH: I appreciate that.
594
595 RICHARD CANUEL: We have already had that discussion.
596
597 LARRY O'SULLIVAN: Should we leave it in the...if we approve this, shall we put that as a restriction or...?
598
599 JIM SMITH: It's...I'm thinking of a recent reopening of a particular restaurant. If you had seen hat I was talking
600 about. Richard knows what I'm alluding to.
601
602 RICHARD CANUEL: All too well.
603
604 LARRY O'SULLIVAN: Okay, so have you opened it to the public?
605
606 JIM SMITH: Yeah, we'll open it...
607
608 [No audience members were present]
609
610 TYLER DEAN: Lost my audience.
611
612 JIM SMITH: Since we have no on in the public, I guess it's kind of a moot point. Any other further questions,
613 observations, comments? Any other further comments on your part?
614
615 TYLER DEAN: I don't have anything further.
616
617 JIM SMITH: In that case, I'll close the hearing and...
618
619 LARRY O'SULLIVAN: I would...yeah, that's good. Yeah, okay.
620
621 DELIBERATIONS:
622
623 LARRY O'SULLIVAN: So I would not there to be a relationship between square footage of a tenant's...
624
625 JIM SMITH: Okay, we're in deliberations right now.
626
627 LARRY O'SULLIVAN: Yeah.
628

629 JIM SMITH: Okay.
630
631 LARRY O'SULLIVAN: Once you said you bring it back, that's it.
632
633 JIM SMITH: Okay.
634
635 LARRY O'SULLIVAN: It's gettin' late.
636
637 JIM SMITH: Okay.
638
639 LARRY O'SULLIVAN: I wouldn't want anyone to think that there's a relationship between the size of a tenant
640 and what we're trying to accomplish in the way of conformity in the town. Our ordinances, the Planning
641 Board and, you know, the public has made a great deal of effort, placed a lot of time in trying to figure out
642 what's acceptable and yep, they've changed it because, "Oh, that really hasn't been enough" or "No, no, that's
643 way too much." We're finding those things out as we go along. And one of the things, if, you know, has been
644 involved in a bunch of this stuff for a long time is we don't want it to look ugly and the one thing that make a
645 town look ugly is signs. I mean, if you can...we don't have much control over the high tension towers and the
646 electric poles and wires that lead from street to business, but this is something that we do have some control
647 over, so what I'd like to be able to say is that, you know, I think he's being fair by saying a hundred and twenty
648 (120) square feet is a proportional look to the other signs that are in that same plaza, so I don't have an issue
649 with that. But the last thing I'd like to do is say the reason that he used is a good one 'cause I don't buy it one
650 bit.
651
652 JAY HOOLEY: You just open up the...right, you know, the twenty (20) foot high by...
653
654 LARRY O'SULLIVAN: You could wind up with, you know, a huge sign there for Alamo Fireworks or somebody,
655 so...or Home Depot and we'd just as soon not go through that again. So anyway, I don't have any issue with it.
656
657 JIM SMITH: Any other comments?
658
659 LARRY O'SULLIVAN: Hearing none, I'd like to make a motion to approve case 5/16/2012-5 as all the points
660 were satisfactorily met and I don't see any reason for any restrictions.
661
662 JIM SMITH: Do I have a second?
663
664 [No response].
665
666 LARRY O'SULLIVAN: It dies.
667
668 JIM SMITH: No second. So we're still open for another motion.
669
670 JAY HOOLEY: I'd make a motion to deny case 5/16/2012-5 in that the applicant failed to meet the five points,
671 in my estimation.
672
673 LARRY O'SULLIVAN: Anything specific?

674
675 JAY HOOLEY: It doesn't meet the...while we're going through them, one, it is contrary to the public interest
676 because the intent was to have one (1) sign of a certain size per occupant. Spirit of the ordinance is not met
677 because we're allowing signs larger than would be specified and are allowed for the remainder of the
678 occupants in that mall. It doesn't do substantial justice, it does a disservice to the remainder of the occupants
679 who complied with the regulation and have a lesser sign and get less visual impact from their complaint signs.
680 And I think there is a fair and substantial relationship because this is what the ordinance was intended to do;
681 limit the size of each sign per occupant in a strip mall.

682
683 JIM SMITH: Do we have a second?

684
685 NEIL DUNN: I'll second that.

686
687 JIM SMITH: All those in favor?

688
689 JAY HOOLEY: Aye.

690
691 JIM SMITH: Aye.

692
693 JAMES TOTTEN: Aye.

694
695 JIM SMITH: Alright, one, two, three...

696
697 NEIL DUNN: Aye.

698
699 JIM SMITH: ...four.

700
701 LARRY O'SULLIVAN: Opposed. Nay.

702
703 JIM SMITH: Okay, four (4) to one (1).

704
705 RESULT: THE MOTION TO DENY CASE NO. 5/16/2012-5 WAS APPROVED, 4-1-0.

706
707 RESPECTFULLY SUBMITTED,

708
709 

710
711
712 NEIL DUNN, CLERK

713 TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

714
715 **APPROVED AUGUST 15, 2012** WITH A MOTION MADE BY LARRY O'SULLIVAN, SECONDED BY NEIL DUNN AND
716 APPROVED 4-0-1 WITH MATT NEUMAN ABSTAINING AS HE HAD NOT ATTENDED THE MEETING.