

**Moultonborough Zoning Board of Adjustment
P.O. Box 139
Moultonborough, NH 03254**

Regular & Organizational Meeting

April 17, 2013

Minutes

Present: Members: Russ Nolin, Joseph Crowe, Robert Zewski, Ken Bickford
 Alternates: Jerry Hopkins, Natt King
Excused: Member: Bob Stephens
Staff Present: Town Planner, Bruce W. Woodruff; Administrative Assistant, Bonnie Whitney

I. Call to Order

Mr. Nolin called the meeting to order at 7:32 PM and introduced the members of the board to the public. Mr. Nolin appointed Jerry Hopkins to sit on the board with full voting privileges in place of excused member Robert Stephens.

II. Pledge of Allegiance

III. Organizational Meeting

Mr. Nolin suggested that the Organizational Meeting be taken up after the hearing scheduled for this evening, allowing the applicants, agents and the public to proceed first.

Motion: Mr. Zewski moved that the Organizational Meeting be moved until after the scheduled hearing this evening, seconded by Mr. Bickford, carried unanimously.

IV. Approval of Minutes

Motion: Mr. Hopkins moved to approve the Zoning Board of Adjustment Minutes of March 6, 2013, as written, seconded by Mr. Bickford, carried unanimously.

V. Hearings

1. Tedeschi Food Shops (142-1)(268 Whittier Highway)
 Variance from Article 5 Paragraph 504D

Mr. Nolin stated that this was an application for a variance asking for relief from Article 5, Paragraph 504D of the Zoning Ordinance.

Attorney Biron Bedard, agent for the applicant, presented the application for the variance. Also present for the hearing was Mike O'Donnell, PE from TF Moran, Dan Hutchins from N.H. Signs and Michael McLaughlin, Operations Manager for Tedeschi Food Shops.

Attorney Bedard stated the request is to permit an internally illuminated sign with gasoline and diesel prices to be displayed using light emitting diodes (LED's). Mr. Bedard provided photos of the existing non-conforming, 68 sq. ft. sign. The proposal is to replace the sign with a conforming 36 sq. ft. internally illuminated sign. The two fuel price slots will be LED lighting with fixed and stable lighting. It

will not be a message center or flashing. The numbers will be fixed and can be changed from within the store, making the changes safer than currently changing the numbers. The sign will be energy efficient and the LED lights will adjust automatically for day and night time. Mr. Bedard went on to note that section 504D of the sign ordinance contains a prohibition of flashing, rotating and distracting signs. Mr. Bedard addressed each of the criteria for the granting of the variance as detailed in the application. He then answered any questions from the board.

Mr. Nolin asked the dimension of the proposed sign and if the existing sign was internally lit. Mr. Bedard noted the dimensions and stated the numerals for the regular gas price will be 12" and the numerals for the diesel price will be 10". The existing "Fuller's", now Tedeschi, sign is internally lit.

Mr. Hopkins questioned if the entire proposed sign was internally lit and noted his concerns with dark skies and the light escaping upward. He also asked if the light reduced on the "white area" of the sign. Mr. Hutchins stated yes that the entire sign was internally lit with forward lighting and that the lighting on the white area does not reduce, only the LED lighting.

Mr. King questioned how long the sign will be illuminated. It was stated that the sign would be illuminated 24 hours a day as the gas pumps are presently open 24 hours a day. Mr. Woodruff commented that Tedeschi is currently before the Planning Board for site plan review.

Mr. Nolin opened the hearing for public input. It was noted that there was none.

Mr. Woodruff commented that he supported the granting of this request. He spoke to the hardship requirement for the granting of a variance. Mr. Woodruff stated that he feels the hardship is the wording and meaning of the ordinance itself. He does not believe that it was the intent of the ordinance to prohibit LED lighting, but to prohibit flashing, changing animated message boards. He referred to his staff memo stating unlike Electronic Message Centers (EMC) that can depict both graphics and video quality media, the gas price board can only show numbers, letters and rudimentary graphics, however if a restriction is placed on the approval that prohibits flashing, changing colors or animated graphics while limiting the change in price to only once or twice in any 24 hour period, I feel the intent of the ordinance will be met. There is justification for this type of sign from a safety standpoint as the need to change out the large price numbers manually and risk losing them to the wind which makes them a potential projectile is mitigated by a remote controlled price change. He then commented if the board was to grant the variance he recommended the following conditions be applied as follows: 1. That each module (of two) displays only the price of unleaded gasoline and the price of diesel fuel. 2. That the price on each module change no more than twice in any 24 hour period. 3. That only numbers necessary for fuel pricing be used; no graphics, moving characters, flashing, intensity change or changing colors shall be employed. 4. That the daytime intensity (nits) of the LED's shall be reduced at dusk to generally acceptable levels established by the Illuminating Engineering Society of North America (IESNA) for LED sign illuminance. The daytime maximum being 5000 nits and the nighttime maximum being 500 nits which roughly equates to 0.3 foot candles above ambient light. This shall be accomplished by installing an ambient light sensing mechanism (photocell) which automatically adjusts the sign's brightness based on current ambient light conditions. 5. That the foregoing conditions be included a requirements in the sign permit.

Mr. Nolin asked if there were any additional questions from the board at this time, it was noted there were none. The board went into deliberative session to discuss each of the criteria for granting the variance at 8:03 PM and came out of deliberative session at 8:10 PM.

There was no further input from the board or public. The voting members were Russ, Bob Z., Joe, Ken and Jerry.

Motion: Mr. Bickford moved to approve the request for a variance from Article 5 Paragraph 504D for **Tedeschi Food Shops, Tax Map 142 Lot 1**, subject to conditions 1 through 5, as written in the Town Planner's Staff Memo, to close the public hearing and to direct staff to draft a formal Notice of Decision, for Board discussion only, based on the Finding of Facts during tonight's hearing, which will be reviewed for accuracy only, and signed by the Chair at the next scheduled meeting, seconded by Mr. Crowe, carried unanimously.

Mr. Woodruff noted the right to appeal in accordance with NH RSA 677:2 would begin tomorrow.

VI. Correspondence

VII. Unfinished Business

2013 Board Organization – Election of Officers and Review of Policies and By-Laws

Mr. Nolin stated this was the business portion of their annual Organizational Meeting. As Senior Member, Mr. Hopkins called the annual Organizational Meeting to order.

Mr. Hopkins called for nominations for Chairman.

Motion: Mr. Crowe moved to nominate Russ Nolin as Chairman.

Mr. Woodruff stated that he had received an email from Mr. Stephens, and contained in the email was his interest to continue to represent the board as their Chairman.

Mr. Nolin declined the nomination for Chairman. Mr. Crowe then rescinded his motion.

Motion: Mr. Bickford moved to nominate Bob Stephens as Chairman, seconded by Mr. Zewski, carried unanimously.

Mr. Hopkins called for nominations for Vice Chairman.

Motion: Mr. Bickford moved to nominate Russ Nolin as Vice Chair, seconded by Mr. Zewski, carried unanimously.

Motion: Mr. Hopkins moved to designate staff to act in the capacity of Secretary pertaining to Minutes and Applications to the Zoning Board, seconded by Mr. Nolin, carried unanimously.

Mr. Nolin noted next on the agenda was the review and possible vote of the Policies.

Review of Policies and By-Laws

Board members were provided with a copy of the Policies that were approved in 2012, which had one change/addition which had been requested by members. This was shown as new section VI. 8. Mr. Woodruff stated that the proposed language addresses if an applicant wants to withdraw their application submitted to the board. Members reviewed these policies.

Motion: Mr. Hopkins moved to approve the Moultonborough Zoning Board of Adjustment Policies as presented this evening, seconded by Mr. Nolin, carried unanimously.

VIII. Adjournment

Motion: Mr. Zewski made the motion to adjourn at 8:33 PM, seconded by Mr. Nolin, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant