

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

Regular Meeting

March 16, 2016

Minutes

Present: Members: Russ Nolin, Ken Bickford, Robert St. Peter
 Alternates: Richard Jenny, Nick DeMeo, Paul Onthank
Excused: Members: Bob Stephens, Bob Zewski
 Alternates: Jerry Hopkins
Staff Present: Town Planner, Bruce W. Woodruff; Administrative Assistant, Bonnie Whitney

I. Call to Order

Vice Chair Nolin called the meeting to order at 7:00 PM and led the Pledge of Allegiance. He then introduced the members of the board to the public. Mr. Nolin appointed Paul Onthank and Nick DeMeo to sit on the board with full voting privileges in place of members Bob Stephens and Bob Zewski.

II. Pledge of Allegiance

III. Approval of Minutes

Motion: Mr. Bickford moved to approve the Zoning Board of Adjustment Minutes of March 2nd, 2016, as written, seconded by Mr. St. Peter, carried unanimously.

IV. Hearings

1. Corner Concessions (52-33) (1009 Whittier Highway)
 Temporary Use/Special Exception – Article XI, Section C

Mr. Nolin stated that this was an application for a temporary use/special exception.

Tricia Conway and Robin & Scott Lamprey were present for the hearing. Tricia Conway presented the application stating that they are proposing to have a hot dog cart located in front of the building at 1009 Whittier Highway. They will be selling hot dogs, cold drinks and individual ice creams. Ms. Conway provided the members with a handout map which showed the property, noting that there is ample parking in front of 1003 and 1009 Whittier Highway. Both properties are owned by Robin and Scott Lamprey. There is additional parking behind the buildings as well. They will have mobile trash cans and a restroom for patrons as well. Their proposal is to be open from the beginning of May through October. Ms. Conway answered any questions from the Board.

The Chair asked for questions from the board. Mr. DeMeo asked if the proposal was for vehicles to park perpendicular or parallel to Route 25. Ms. Conway replied that it would be parallel in front of 1009 and perpendicular in front of 1003. It was noted that 1003 is currently vacant and members questioned the impact on the parking once the building was occupied. Mrs. Lamprey replied that they will be the tenants in their building. Mr. Lamprey commented that they have plans to pave in between 1003 and 1009 Whittier Highway and will have a hand-capped space between their two buildings. They will also have signage indicating there is additional parking to the rear.

The Planner referred to his staff memo in which he noted Article XI, Section C of the zoning ordinance. He noted that there is no other avenue for such a request as the town does not have a hawkers & peddlers section in the ordinance. The proposed temporary uses request does not fall under Article XI, H. (1&2) therefore the request is before the ZBA. The board may approve the request for up to twelve (12) months. If granted the board may wish to place a specific time period on the approval. Whatever term they decide on, the applicant would have to come back and ask for the temporary use again once the term expires. Mr. Woodruff went through his staff memo which included his reason for his recommendation along with suggested conditions which included a specific time of 6 months.

Members noted their concerns with trucks stopping along Route 25, partially still in the highway and questioned what they could do about that. The Planner replied that it would be within the purview of the board to place a condition on the temporary use/special exception that should something like that occur they could be notified by the Police that there was such an issue and that the applicant would be required to come back to the board, or they could revoke the temporary use permit at any time. Mr. Lamprey commented that they intend to stripe the paved areas in front of the buildings, designating parking.

Members noted their concerns with the location of the cart in proximity to the highway. It was the decision of the board to restrict the cart from being placed any further forward than the front of the building at 1003 Whittier Highway.

Mr. Nolin opened the hearing for public input at this time, noting there was none.

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 limited criteria for granting the temporary use special exception at 7:20 PM and came out of deliberative session at 7:24 PM.

There was no further input from the Board or public. The voting members were Russ, Ken, Rob, Paul and Nick.

Motion: Mr. Bickford moved to grant the request for a temporary use special exception under MZO Article XI. C for Corner Concessions, Tax Map 52, Lot 33 subject to the following conditions: 1) This approval shall be valid for six (6) months, beginning on May 1, 2016, ending on October 31, 2106; 2) The applicant must apply for and receive a health permit from the state; 3) The applicant must apply for and receive a hawkers & peddlers license from the state if required; 4) Customers' vehicles shall be parked in back of the existing building, with the exception of the two parallel parking spaces in front of the building; 5) The parking spaces are to be striped; 6) The ZBA may revoke the temporary use approval should any safety issues be observed and documented by the Code & Health Officer; 7) Signage is limited to one ground A-frame type sign no larger than 6 sq. ft. per side which shall not be placed within the limits of any highway right of way or private right of way or in such a position as to endanger traffic on a roadway by obscuring a clear view for entering or exiting vehicles or pedestrians; 8) The placement of the hot dog/ice cream cart is not to be further forward than the front of the existing building located at 1009 Whittier Highway... and to close the Public Hearing. The Board moved to direct Staff to draft a formal Notice of Decision for review and approval for signing at the next meeting, seconded by Mr. St. Peter, motion passed, five (5) in favor (Nolin, Bickford, St. Peter, Onthank, DeMeo) and none (0) opposed.

Mr. Nolin noted the 30 day right to appeal in accordance with NH RSA 677:2 would begin tomorrow.

Mr. Bickford stepped down from the board at this time for the remainder of the meeting. Vice-Chair Nolin appointed Mr. Jenny at this time with full voting privileges.

2. Stephens Landscaping Professionals, LLC (141-9) (63 Whittier Highway)
Variance from Article 5, Section 503, Paragraph C

Mr. Nolin stated that this was an application for a variance from Article 5, Section 503, paragraph C of the zoning ordinance to permit an increase of marquee sign from 5 square feet to 16 square feet. The zoning ordinance allows for a 36 square foot main sign and a 5 square foot marquee sign for a total of 41 square feet. The proposal is for a 25 square foot main sign and a 16 square foot marquee sign for a total of 41 square feet.

John, Mark and Rob Stephens were present for the hearing this evening. John provided the board with a revised drawing of the proposed sign with dimensions. The revised drawing shows a total square footage of 40 sq. ft. John gave a brief history of their business, noting that they are looking to expand the retail side of their business at 63 Whittier Highway. In doing so one of the things in the vision of their company is their logo, trucks and signage. They met with a sign company to come up with a design that was fitting for their company and for the needs of the expanded retail. The design they have presented does differ from the ordinance in two ways. The first being that they are not asking for any additional square footage, it is actually less than the combined total (main sign and marquee) but in a different distribution. They looked at different variations of sketches that had incorporated stephenslandscaping.com into the main sign, but it didn't work out for the look they needed. They have settled upon the design presented in the application which is for a 20 sq. ft. main sign and a 20 sq. ft. marquee sign. There was a lengthy discussion on how they arrived at the square footage of the main sign and marquee. Noting that the changeable wording on the marquee would only be 10 ½ sq. ft. and that the area of their web address wasn't changeable. The sign will not be internally lit. John reviewed the criteria for the granting of a variance.

Board members questioned the size of the letters on the marquee. Rob Stephens stated that he had done some research regarding the size of the letters. He stated the letters will be 3" x 6", giving an explanation of how they chose that size. He gave examples of how many letters they could add to the marquee based on different sizes. He noted if the letters were smaller they could fit more on the sign, but that you couldn't read them due to the distance the sign is from the road and the speed at which vehicles travel. They feel that if the letters were smaller it would cause more issues with someone trying to read a message on the marquee.

Members questioned the reasoning for the section in the ordinance that restricted at marquee sign to 5 sq. ft. Members were not certain on the intent, with some believing it was to do with multi-tenant signage for a plaza or such. The question was asked if the marquee could be an LED message board or something similar. It was stated no, that the ordinance prohibits that type of signage.

The Planner commented that the ordinance does not say that you can have an aggregate of 41 sq. ft. It says 36 and 5, which is why they are asking for a variance. He added that regardless of all of the testimony this evening of what the dimensions are and where they are measured from, he strongly suggested that board consider a variance for what was applied for at 41 sq. ft. Mr. Woodruff wasn't certain what dimensions they used to calculate the area of their web address. He commented that no matter how much number crunching the board did, he suggested that they look at 41 sq. ft. for the application because if the applicant is wrong (using 40 sq. ft.) and they come in for a sign permit, they can only get 40 sq. ft. The applicants stated that they would like to request that the board consider a total of 41 sq. ft.

Mr. Nolin asked if the business is sold, could someone come in for a sign permit to put up a maximum of 36 sq. ft. for the main sign. The Planner stated that in his staff memo he had suggested a condition that if in the future the sign was replaced, the total area of both signs shall not exceed 41 sq. ft.

The Planner went on to add that he was nominally in favor of the request to have a larger marquee sign. He added “nominally” as he believes that sign variances are the hardest to convince a zoning board that they meet all five criteria. He does believe that there is a hardship due to the location of the sign. Not being able to see the letters on the sign when you are travelling at 45-50 mph is a good argument. The Planner went on reviewing the remainder of his staff memo which included his reason for opinion and suggested conditions of approval if granted.

Mr. Nolin opened the hearing for public input at this time, noting there was none.

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 7:49 PM and came out of deliberative session at 7:54 PM.

There was no further input from the Board or public. The voting members were Russ, Rob, Paul, Nick and Rich.

Motion: Mr. DeMeo moved to grant the request for a variance from MZO Article 5. Section 503, Paragraph C for Stephens Landscaping, LLC, Tax Map 141 Lot 9 subject to the following conditions: 1) That even if the main business sign is replaced in the future, the total area of both signs shall not exceed 41 sq. ft. area; 2) That the foregoing condition be included as a requirement in the sign permit ... and to close the Public Hearing. The Board moved to direct Staff to draft a formal Notice of Decision for review and approval for signing at the next meeting, seconded by Mr. St. Peter, motion passed, five (5) in favor (Nolin, St. Peter, Onthank, DeMeo, Jenny) and none (0) opposed.

Mr. Nolin noted the 30 day right to appeal in accordance with NH RSA 677:2 would begin tomorrow.

V. Correspondence

VI. Unfinished Business

1. Review and possible authorization for the Chair to sign the formal Notice of Decision for the March 2nd, 2016 granting of a variance for Manuel & Wendy Papagolos, for a parcel located at 30 Arrow Trail (Tax Map 189, Lot 18).

The Board reviewed the Draft Notice of Decision prepared by staff, as directed by the Board at the Hearing on March 2nd. There were no changes made to the draft.

Motion: Mr. Onthank moved to approve the formal Notice of Decision as written for Manuel & Wendy Papagolos (189-18) and to authorize the Vice Chairman to sign and staff to mail said notice to the applicant or applicant’s agent, seconded by Mr. St. Peter, motion passed, four (4) in favor (St. Peter, Onthank, DeMeo, Jenny), one (1) abstention (Nolin) and none (0) opposed.

2. Review and possible authorization for the Chair to sign the formal Notice of Decision for the March 2nd, 2016 granting of a variance for Sixteen Clearwater Point Road Realty Trust, Laurie Anne Tocco-Burns, Trustee, for a parcel located at 16 Clearwater Point Road (TM 174, Lot 64).

The Board reviewed the Draft Notice of Decision prepared by staff, as directed by the Board at the Hearing on March 2nd. There were no changes made to the draft.

Motion: Mr. St. Peter moved to approve the formal Notice of Decision as written for Sixteen Clearwater Point Road Realty Trust, Laurie Anne Tocco-Burns, Trustee (174-64) and to authorize the Vice Chairman to sign and staff to mail said notice to the applicant or applicant's agent, seconded by Mr. DeMeo, motion passed, four (4) in favor (St. Peter, Onthank, DeMeo, Jenny), one (1) abstention (Nolin) and none (0) opposed.

3. Mr. Nolin stated that Mr. Jenny's term as an Alternate Member of the Zoning Board of Adjustment was ending at the end of this month. Mr. Jenny expressed his interest to serve another term as an alternate. After a brief discussion the following motion was made:

Motion: Mr. Nolin moved to re-appoint Richard Jenny as an Alternate Member of the Zoning Board of Adjustment with a term ending in March 2019, seconded by Mr. DeMeo, carried unanimously.

VII. Adjournment

Motion: Mr. Nolin made the motion to adjourn at 8:02 PM, seconded by Mr. St. Peter, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant