



Meeting Minutes
North Hampton Planning Board
Tuesday, September 4, 2012 at 6:30pm
Town Hall, 231 Atlantic Avenue

These minutes were prepared as a reasonable summary of the essential content of this meeting, not as a transcription.

Members present: Shep Kroner, Chair; Laurel Pohl, Vice Chair, Joseph Arena, and Phil Wilson, Select Board Representative.

Members absent: Barbara Kohl, Mike Hornsby, and Tim Harned

Alternates present: Nancy Monaghan

Others present: Brian Groth, RPC Circuit Rider, Wendy Chase, Recording Secretary and Kevin Kelley, Building Inspector/ Code Enforcement Officer, who left the meeting at 8:00 pm.

Mr. Kroner convened that meeting at 6:30pm.

Mr. Kroner seated Ms. Monaghan for Mr. Ms. Kohl, and noted for the record that there was a quorum.

Mr. Kroner introduced the newly hired Building Inspector/Code Enforcement Officer, Mr. Kevin Kelley to the Board and Audience.

Mr. Kelley addressed the Board and said that in the short time that he has been employed with the Town he has received calls and emails from members of the Boards regarding possible zoning violations. He has been dealing with sign violations and plans to do his best in keeping the Town aesthetically correct.

Dr. Arena commented that he hopes Mr. Kelley plans to stay in North Hampton for a long time.

Mr. Kroner explained to the Board that he met with Mr. Kelley and spoke to him regarding his attendance at Planning Board Meetings. Mr. Kelley will attend Planning Board Meetings that involve highly technical cases only because time spent at the meetings takes him away from time spent in the community.

I. Old Business

1. **Case #12:10 – Golden Ks LLC, 63 Atlantic Avenue, North Hampton, NH.** The Applicant proposes a 3-lot subdivision by subdividing two (2) residential house lots off from the parent parcel fronting on Chapel Road leaving the commercial property with a single residence on Atlantic Avenue. Property owner: Golden Ks LLC, Guy Marshall, 63 Atlantic Avenue, North Hampton, NH:

Property location: 63 Atlantic Avenue and Chapel Road; Tax Map & Lot 005-038; Zoning district: R-2. This Case has been continued from the August 7, 2012 meeting.

The Board was in receipt of a request for a continuance of Case #12:10 to October 2, 2012, from the Applicant's Counsel, Attorney Timothy Phoenix.

Mr. Kroner explained that the Applicant went to the Zoning Board, as suggested by the Planning Board, and received a Variance to Article V, Section 501.2 with conditions, so the Applicant is creating a new plan based on decisions made by the ZBA.

Dr. Arena moved and Mr. Wilson seconded the motion to grant the Applicant's request to continue his case, #12:10, to the October 2, 2012 meeting.

Mr. Wilson said that the continuance is necessary so not to interfere with the Zoning Board Decision's 30 day appeal period.

The vote was unanimous in favor of the motion (5-0).

2. **Case #12:15 – Barr-Moran, Inc., PO Box 1076 North Hampton, NH. Conditional Use Sign Application.** The Applicant requests the following waivers: Article V, Section 506.2.K – relief from the width requirement; Article V, Section 506.6.D – relief from the maximum 60 square foot size requirement; Article V, Section 506.6.G – size requirement in districts other than the I-B/R; and Article V, Section 506.6.Q - color. Property owners: David and Suzanne Pope, Trustees, David A. & Suzanne Pope Revocable Trust, PO Box 905, North Hampton, NH; Property location: 16 Ocean Blvd, North Hampton, NH (Beach Plum); M/L 001-035-000; Zoning district: R-2. This Case has been continued from the August 7, 2012 meeting.

In attendance for this application:

Attorney Craig Salomon, Applicants Counsel

Robert Lee, Applicant

Mr. Salomon commended the Town for hiring Kevin Kelley. He said that he has had encounters with Mr. Kelley in Hampton Falls and in Epping and said that he felt Mr. Kelley was a "straight shooter" and will be an asset to the Town of North Hampton.

Mr. Salomon said that the Applicant has secured the Owner's Signature on the Conditional Use Sign Application requested by the Board at the last meeting. He said that he also had Nancy Lee sign as President of the Barr-Moran Corporation.

Mr. Kroner said that at last month's meeting the Board charged him with obtaining an opinion from Legal Counsel regarding Article V, Section 501.2 – expansion on a non-conforming use. Ms. Chase contacted the Local Government Center and they did not provide any information. Mr. Kroner contacted Attorney Matt Serge and his response was that he agreed with the Planning Board's decision that, the way the Ordinance is written, the application is subjective to Section 501.2. He said that whether the lobsters are signs, or whether they are statues, the Board was being asked to differentiate between the two. Attorney Serge said that he was not making a legal writing, he said it is one of those

93 areas where the Board needs to make the decision it needs to make. He said that the only thing that
94 makes it somewhat of a "gray" area is not so much as the Ordinance is written, but there is a State RSA
95 that speaks to the fact that there is always some level of natural expansion that's allowed in a non-
96 conforming use.

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98 Mr. Kroner said that the Board needs to vote on whether the Applicant needs to seek relief from Article
99 V, Section 501.2 from the Zoning Board of Adjustment.

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101 Mr. Kroner addressed the Applicant's question on how the Planning Board deals with the Zoning Board's
102 administration on the issue of "Conditional Use". Attorney Serge said that he cannot dictate how the
103 Zoning Board will hear a case, but in his opinion he felt that the Zoning Board should essentially focus on
104 the issue at hand, which is signage. He said that he couldn't usurp the authority of the Zoning Board of
105 Adjustment in any case, but that's how he feels it should be addressed.

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107 Mr. Salomon repeated his concern, if the Zoning Board, in its discretion, goes beyond the nay or yea on
108 the expansion issue than it has usurped the Planning Board's power under the Sign Ordinance to make a
109 determination regarding the sign. He said the question for the Board to answer is whether the lobsters
110 are signs or whether they are sculptures.

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112 Mr. Kroner said that the ZBA has the authority to say whether or not the Planning Board can move
113 forward on an application.

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115 Mr. Groth said that the Town's Attorney has given guidance that they should make a decision on the
116 matter as a Board.

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118 Mr. Kroner said that Attorney Serge was saying that the ZBA would not be approving the sign; they
119 would be granting the Applicant the authority to go before the Planning Board for a sign application.

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121 Dr. Arena said that the question is whether or not the proposed sign will have an effect on the business;
122 does the sign need to be there in order for the business to proceed. He said that the lobsters are either
123 considered art, or they are considered signs, and he does not consider them to be art. He said that the
124 Beach Plum is already a well established business and the lobsters do nothing to increase their well
125 established business, or decrease it. He said they are turning that area into a modified, high class "junk
126 yard".

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128 Mr. Wilson said that the two questions are: 1) Can Barr-Moran demonstrate, that they meet the criteria
129 for a variance in seeking the change or to expand a non-conforming use; that's a question for the ZBA.
130 That presupposes that the Planning Board has interpreted Section 501.2 that the action they're
131 proposing on the property is to expand a non-conforming use. The second question is a Planning Board
132 question; does the Planning Board approve the sign application that raised question #1. The Planning
133 Board cannot act on a sign application that expands a non-conforming use without a variance from the
134 ZBA. If the Applicant does meet the criteria for a variance and does not need relief from the ZBA then
135 the Planning Board can adjudicate the sign application according to the Board's normal practices.

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137 Mr. Wilson said that the ZBA can place conditions on their granting of a variance, but does not think
138 they can put conditions on the Conditional Use process. If the Planning Board decides that the Applicant

needs relief from Section 501.2; they are asking the ZBA whether or not they agree that the sign application is an expansion of a non-conforming use, and if they don't agree that it is an expansion, then the Applicant goes before the Planning Board with a Conditional Use Sign application.

Ms. Pohl said that the case presented to the Board is an expansion of a non-conforming use. She said that it is appropriate that the ZBA either grant, or deny, a Variance on it.

Dr. Arena said that, in this instance, the presence of a sign is going to amount to clutter on an already successful business.

Mr. Kroner said that Attorney Serge was adamant that signs are structures.

Mr. Wilson said that the Board needs to determine whether or not the lobsters are signs. He said if the "Beach Plum" words were removed and the carving was moved onto someone's property other than the Beach plum would it be considered a sign. He said that there is a lobster sculpture in front of the Elementary School that is considered a piece of art. He said that, in his opinion, if the words "Beach Plum" were removed then the Board could reasonably find that the lobsters are statues and not signs.

Mr. Kroner said that the lobsters are a key portion of the Beach Plum's entire consumer messaging. He said that the lobsters are on their web site and on their billboards and, in his opinion; it is a part of their attempt in branding their business. He referred to Apple Computer and said that people just look at the apple logo and they know what it is.

Mr. Wilson questioned if a statue is in front of a business and is used as part of their "branding" does that make it a sign; is it a "trademark" a sign.

Ms. Pohl said that the criteria used to determine whether or not it is a sign, is where the sign is placed on the property. She asked the applicant if he moved the lobster behind the building would it still be considered a "sign", or would it be considered "art". She said that if the lobster was placed in the back of the property it wouldn't matter if it was "art"; it does matter if it is a "sign"; therefore, in her opinion, she believes the lobsters are signs.

Mr. Groth reminded the Board that what they have before them is an application for a sign.

Mr. Kroner commented that the Zoning Board had made a determination that the sculptures are signs and wasn't sure if the Planning Board has the authority to determine that they are not signs.

Mr. Wilson said that when the ZBA made that determination the words "beach plum" was on the sculptures. He said that his point was to remove the words.

Ms. Monaghan said that in her opinion the lobsters are clearly signs. She said that there is a difference between a lobster in front of the Library and a lobster holding ice cream cones in front of an ice cream stand that also sells lobster rolls. She said that even with the words removed they are still signs.

The Applicant, Bob Lee, addressed the Board. He said that it has come up that because the business is successful it is held on a different standard; that they don't need signs. He submitted pictures of area

competitors depicting the amount of signage they have (Petey's and Ray's, located in Rye, NH). He said that Barr-Moran pays more taxes than any taxpayer in North Hampton; 9% of all sales go directly to the State of New Hampshire. He said that they are trying to be a good business and are up against very successful competitors. He said that he paid a lot of money for the sculptures; a lot more money than what a sign would cost. He said that the business has been in operation for over sixty (60) years; prior to Zoning. He said that they've had the lobster under the portico for over five (5) years and the larger lobster for just over a year and they will be willing to paint over the words "beach plum". He said that, when in season, they are the highest employer in North Hampton. He said the lobster sculptures bring enjoyment to families. Mr. Lee commented that if the lobsters were signs he would have them placed right up to the roadway.

Ms. Pohl said that the businesses in the pictures are not located in North Hampton and fall under a different Zoning Ordinance. She asked Mr. Lee if he would consider moving the structures in back of the property by the dumpsters. Mr. Lee said he is restricted by the Landlord on where to put things on the property; he agreed to move the large lobster to the picnic table area if the would solve the issue. He said they strive to work well with the Planning and Zoning Boards, to be good neighbors, and keep the property clean.

Ms. Pohl commented that if the Applicant went to the ZBA and allowed them to follow the process he would most likely be granted a waiver.

Mr. Groth said that the message the Applicant received from the ZBA was to go to the Planning Board and apply for a Conditional Use Sign Application.

Mr. Wilson addressed Mr. Lee and said that he believes that everyone is happy for the Beach Plum's success, and appreciates the fact that they employ jobs to young people. He said that, speaking from experience, he knows that the employees learn a lot working there. Mr. Wilson read the definition of Sign, Section 301.31 into the record, *The word "sign" shall mean and include every sign, billboard, ground sign, wall sign, illuminated sign, projecting sign, sandwich board, temporary sign and include any announcement, demonstration, display or any device used in advertising out of doors in view of the general public.* He commented that the "lobster" is on every Beach Plum billboard; he said, in his opinion, the lobsters are signs even with the words "Beach Plum" removed. Mr. Wilson said that Mr. Lee referred to the notion that he wanted to be a "good neighbor" and asked him: Do good neighbors cause safety hazards, traffic and parking issues, trash and pollution problems for their neighbors or make beautiful, natural, public places undesirable for their neighbors? He said he witnessed overflowed trash receptacles at the beach and 80% of the trash was from the Beach Plum.

Mr. Lee said that he has never picked up trash off of the sand on the beach that was from the Beach Plum and didn't think it fair to make such accusations.

Mr. Kroner interrupted and stated he did not want the proceedings to turn in the direction it seemed to be heading.

Mr. Wilson said the he believed that the Applicant inferred that he was lying, and finds it to be unacceptable behavior. He said the he thinks the Board should proceed with deliberations on what action it is going to take without any further interaction from the public.

Mr. Wilson moved and Ms. Pohl seconded the motion to close the floor to comment and deliberate as a Board.

The vote was unanimous in favor of the Motion (5-0).

Mr. Kroner said that the Board needed to address the issue of Section 501.2.

Mr. Wilson explained that the Board first had to address the waiver requests before deciding whether or not to take jurisdiction of the Application, because if any one of the waivers fails, then the Board cannot take jurisdiction, because the application would be incomplete. He also said that if they vote on whether the Applicant needs to go to the ZBA the Planning Board could adjudicate the application and make it conditioned on the ZBA's findings.

Mr. Salomon submitted a copy of the Conditional Use Sign application with the owner's signature into the record.

Waiver Request 506.2.K – Monument sign – The applicant seeks relief from this section because the width at the top of the sculpture is wider than the base of it. Mr. Wilson said that the Board needed to consider whether or not the sculpture is a monument sign.

Mr. Groth said that the relief sought is from a portion of the definition "Monument Sign" to allow the top of the sign to be wider than the base, and said it was up to the Board's discretion.

Mr. Kroner referred to NH RSA 674:44 III (e): The Planning Board may only grant a waiver, if the Board finds, by majority vote:

- 1) Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations, or
- 2) Specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations.

The Board discussed whether or not it was a monument sign.

Ms. Pohl said that she believed the purpose of the restriction of the size of the top as compared to the relative size of the bottom is, because somewhere else in the ordinance, it states what monument signs can be, and it's measured at the base, so in keeping with the spirit of the ordinance a waiver to this request would be detrimental.

Mr. Groth said that he defines the lobsters as monument signs because of the definition of monument sign, *a freestanding sign supported primarily by an internal structural framework or integrated into landscaping or other solid structural features other than support poles.*

Dr. Arena said that if the lobsters are considered "art" than they are not "signs".

Mr. Wilson moved and Ms. Monaghan seconded the motion that the Board finds that the "lobsters", as presented, are signs.

The vote was unanimous in favor of the motion (5-0).

Mr. Wilson moved and Ms. Pohl seconded the motion that the Board finds the signs to be monument signs.

The vote passed in favor of the motion (4 in favor, 1 opposed and 0 abstention). Mr. Wilson opposed.

Mr. Wilson moved and Ms. Pohl seconded the motion to deny the waiver request from Article V, Section 506.2.K – Monument sign.

Mr. Wilson said that he believes that the intention of the monument sign was to create signs with a base, with flowers or stone; not a base that is narrower than the top.

Mr. Groth agreed with Mr. Wilson on the intent of the monument sign, but it was the closest thing of what the sculptures actually are under the definitions of the Ordinance.

The vote passed in favor of the motion (4 in favor, 1 opposed and 0 abstention). Dr. Arena opposed.

Waiver Request 506.6.D – Relief from the maximum 60 square-foot size requirement of a monument sign.

The Board determined that a waiver to Article V, Section 506.6.R would be required because the Applicant exceeded the amount of signs allowed on the property.

Mr. Salomon said that Mr. Groth had mentioned that issue at the last meeting and the Applicant is aware of the issue, but he did not want to file another application without knowing if they would have to go to the Zoning Board.

Mr. Wilson moved and Ms. Pohl seconded the motion that a waiver to Article V, Section 506.6.R is required, and has not been submitted by the Applicant.

The vote was unanimous in favor of the motion (5-0).

The Board went back to the discussion on the waiver request from Section 506.6.D.

The Board reviewed the diagram of the lobsters submitted with the application. Discussion ensued and the Board determined that the smaller lobster was 17.81 square-feet and the larger lobster was 27.13 square-feet; the total square footage of the two lobster sculptures combined was determined to be 54.26 square-feet.

Mr. Wilson moved and Dr. Arena seconded the motion to accept the Applicant's representation of the square footage of the two lobster signs combined to be 54.26 square-feet.

The vote was unanimous in favor of the motion (5-0).

The Board discussed the height and width of the monument signs.

Mr. Wilson moved and Dr. Arena seconded the motion that the Board finds that the waiver to the height requirement is not necessary.

Ms. Pohl disagreed and said that the Board needs an accurate measurement of the signs and that it is not in the Board's best interest to make a determination without knowing the exact height of the signs.

Mr. Wilson said that if the motion fails; the Applicant would have to come back before the Board with the exact measurements.

Dr. Arena withdrew his second and Mr. Wilson withdrew his motion.

Dr. Arena opined that the lobster sculptures do not fit the description of a monument sign; they look more like a piece of art because they have character on all sides, and a monument sign only has it on the front and back.

**Mr. Wilson moved and Ms. Monaghan seconded the motion that before the Board can act on the waiver request it needs an accurate measurement, from the Building Inspector/Code Enforcement Officer of the actual height of the lobster structures.
The vote was unanimous in favor of the motion (5-0).**

Waiver request from Article V, Section 506.6.Q – Color

Mr. Wilson moved and Dr. Arena seconded the Board finds that a waiver is not required for the color of the lobster signs.

Ms. Pohl commented that the colors are muted and the lobster color is "barn" red.

The vote was unanimous in favor of the motion (5-0).

Waiver request from Article V, Section 506.6.G – signs other than the I-B/R Zoning District –

Mr. Kroner opined that strict conformity to this provision would impose an unnecessary hardship. He said that the provision was not written with the type of lobster sculptures in mind.

**Mr. Wilson moved and Dr. Arena seconded the motion to grant the waiver request to Article V, Section with the condition that the Applicant keep the small lobster where it currently exists under the porch roof and to move the larger lobster in the center of the picnic seating area.
The vote was unanimous in favor of the motion (5-0).**

The Board denied the Waiver Request from Article V, Section 506.2.K – Monument Sign. Mr. Groth explained that if the Board determines the lobster sculptures to be monument signs then they would have to first grant the waiver to Section 506.2.K because the sculptures do not meet the definition of monument signs.

Mr. Salomon said he knows that the Applicant has to come back before the Board to request relief from Article V, Section 506.6.R, and there may be an issue regarding the Zoning Board, but the Board may wish to reconsider its decision on the waiver request from Section 506.2.K, and maybe put a condition on it that the Applicant put a structure around the base of the large lobster.

Dr. Arena said that the Board should revisit the issue of whether or not the lobster sculptures were in fact signs.

Mr. Kroner said that the Zoning Board ruled that the lobster sculptures are signs and the Planning Board does not have the authority, at this stage, to determine that they are not signs. The ZBA has the task of interpreting the Zoning Ordinance.

Mr. Salomon said that the ZBA based their ruling on the lobsters having the words "beach plum" written on them and placed in the location they are currently in. If the words on the carvings were removed and the sculptures were relocated then the Planning Board could make a determination under those conditions, and if anyone disagreed, they would have the 30-day appeal period to do so.

Mr. Wilson moved and Dr. Arena seconded the motion to reconsider the Board's decision that the lobsters are monument signs.

The vote was unanimous in favor of the motion (5-0).

Mr. Groth explained to the Board that in order for the sign to be a monument sign it must meet the definition of monument sign under Section 506.2.K. and the definition of a monument sign is that the base of it is wider than the top, so the applicant needs a waiver to that Section because the large lobster is wider at the top.

Mr. Wilson moved and Ms. Monaghan seconded the motion that if the Applicant continues to display the small lobster structure under the porch roof, and if the Applicant agrees to move the large lobster structure to the center of the outdoor seating area, the Board finds that these structures are not used as signs as defined in the Zoning Ordinance.

Dr. Arena said that he may have used the words "junk yard" earlier, but not in the sense as how people think of "junk yards". He said that after a lot of thought he determined the sculptures to be "art" as per the characteristics of the sides of the sculpture are related to the characteristics on the front and back of the sculpture.

The vote was unanimous in favor of the motion (5-0).

Mr. Wilson moved and Dr. Arena seconded the motion to grant the Conditional Use Sign Permit for the signage as proposed for the Beach Plum based on the fulfillment of the requirements of the waivers that have been granted. The small lobster structure remain under the roof of the porch and the large lobster structure be moved to the center of the outside seating area.

Mr. Kroner said that the Conditional Use permit is for a sign and if the Board determines the sculptures not to be signs; how does that work.

Ms. Monaghan agreed and asked why the Board would vote on a Conditional Use Sign permit for a non-sign.

Dr. Arena withdrew his second and Mr. Wilson withdrew his motion.

Mr. Wilson moved and Dr. Arena seconded the motion that the Board finds that no Conditional Use Permit is required for the display of the lobster structures on the site of the Applicant's business if the Applicant agrees to continue to place the small lobster structure under the roof of the porch and move the large lobster structure to the center of the outdoor seating area on the site.

The Board agreed that the words "beach plum" on the sculptures does not have to be removed.

Ms. Monaghan said that if the Applicant meets the conditions then the lobsters are not signs, but if the Applicant does not meet the conditions, then they are signs.

Ms. Pohl said that if the Applicant does not meet the Board's conditions then he is in violation of the Zoning Ordinance.

The vote was unanimous in favor of the motion (5-0).

Mr. Wilson moved and Ms. Monaghan seconded the motion that if within thirty (30) days the Applicant does not comply with the conditions of the Board's finding, that a Conditional Use Sign Permit is not required of the display of the lobster structures, then the Board finds that the Applicant is out of compliance of the Zoning Ordinance.

Ms. Pohl made a friendly amendment to include, if the large lobster is not relocated within thirty (30) days.

Mr. Wilson and Ms. Monaghan accepted the friendly amendment to the motion.

The vote was unanimous in favor of the motion (5-0).

Mr. Salomon mentioned the thirty (30) day appeal period. He suggested the Board increase the thirty (30) day condition to forty-five (45) days.

Ms. Pohl moved and Mr. Wilson seconded the motion to reconsider.

The vote was unanimous in favor of the motion (5-0).

Mr. Wilson moved and Ms. Pohl seconded the motion to overturn the prior motion.

The vote was unanimous in favor of the motion (5-0).

Mr. Wilson moved and Ms. Pohl seconded the motion that if within sixty (60) days the Applicant does not comply with the conditions of the Board's finding, that a Conditional Use Sign Permit is not required of the display of the lobster structures, then the Board finds that the Applicant is out of compliance of the Zoning Ordinance, and if the Applicant does not relocate the large lobster structure to the seating area within sixty (60) days, then the Board finds the applicant to be in violation of the Zoning Ordinance, and if the Applicant relocates the small lobster on the site, the Board finds the Applicant to be in violation of the Zoning Ordinance.

The vote was unanimous in favor of the motion (5-0).

Mr. Lee apologized to Mr. Wilson for his earlier behavior.

Mr. Wilson accepted Mr. Lee's apology.

Mr. Kroner called for a five (5) minute recess.

Mr. Kroner reconvened the meeting.

II. New Business

1. **Case #12:16 – Barlo Signs for L.L. Bean, 158 Greeley Street, Hudson, NH 03051. Conditional Use Sign Application.** The Applicant requests two (2) internally lighted wall signs 3'6" x 20' consisting of channel letters of 28 square feet each. The Applicant requests the following waivers, (1) Article V, Section 506.5.G. – Internally lighted signs, and (2) Article V, Section 506.6.K – Wall signs, to allow two (2) wall signs exceeding the allowable size and quantity of one (1), 24 square-foot wall sign. Property Owner: W/S North Hampton Properties, LLC, 1330 Boylston Street, Chestnut Hill, MA 02467; Property location: 35 Lafayette Road; M/L 007-052-000; Zoning district I-B/R.

In attendance for this application:

Tim Sullivan, Barlo Signs, Applicant for L.L. Bean

Mr. Sullivan explained that an L.L. Bean Outlet Store will be moving into the Shaw's plaza at the end unit that was previously occupied by Hollywood Video and the unit occupied by Maurices clothing store. He explained that the combined units have frontage on Lafayette Road and frontage facing the parking lot. They will be the second largest tenant in the plaza. He said that the signs that currently exist in the plaza are internally lighted and the Applicant would like their sign to be in uniform with the rest of the plaza. He said the owner of the plaza would rather have the Applicant use Channel letters rather than a box lit sign.

Mr. Kroner commented that the previous tenant used both fascias to put signs on.

Ms. Monaghan stated that the Corporate L.L. Bean Store in Freeport, Maine is not internally lighted because their ordinance prohibits internally lighted signs. Mr. Sullivan commented that the entire Town of Freeport, Maine has external lighting; his Client just wants to conform with the rest of the Plaza in North Hampton.

Ms. Monaghan said that the purpose of the North Hampton Ordinance is to move toward converting the internally illuminated signs to external lighting. She said that this Board did not allow Staples and other businesses to have internally lighted signs and at some point the Plaza needs to come into compliance, and it seems that L.L. Bean is a good place to start.

Mr. Wilson said that internally lighted signs existing in Town were approved before the current Sign Ordinance was adopted, and the Town is trying to aggressively move toward total compliance regarding externally lighted signs. He said when the Planning Board drafted the Sign Ordinance they used Freeport, Maine's Sign Ordinance as a model.

Mr. Wilson moved and Ms. Pohl seconded the motion to deny the Waiver Request from Article V, Section 506.5.G – Internally lighted signs.

Dr. Arena commented that the amount of light spillage from the letters with the dark green background would be negligible. He said that in terms of light spillage; it will be controlled.

Mr. Kroner said that the current Sign Ordinance passed overwhelmingly by the Legislative Body and that is what the Board has to work with, if people don't agree with prohibiting internally lighted signs then an amendment needs to be drafted and voted on by the townspeople.

Mr. Wilson said that the Town also has regulations regarding "dark sky" standards, and whatever fixtures used to light the sign, must meet the "dark sky" standard.

The vote passed in favor of the motion (4 in favor, 1 opposed and 0 abstention). Dr. Arena opposed.

Mr. Wilson moved and Dr. Arena seconded the motion to grant the waiver request from Article V, Section 506.6.K to allow two wall signs; one on the southern elevation of the building, and one on the western elevation of the building.

Mr. Wilson said that the Board should continue to be consistent; they have allowed end units, in the past that did not have a sign on a pole sign, to use both facades for signage.

The vote was unanimous in favor of the motion (5-0).

Waiver Request from Article V, Section 506.6.K – Wall Sign Size

Mr. Wilson said that it is hard to act on this waiver if the Applicant is not going to use the sign as proposed because the Board denied the waiver request for internally lighted signs. The Board does not know what alternative they plan to use.

Mr. Sullivan said that they have a design in mind for external lighting; the gooseneck lighting would come out of the back panel. He explained that the Outlet Stores have a dark green background with white channel letters, and the Retail Stores have green channel letters.

Ms. Monaghan said that the white letters with the green background would allow L.L. Bean to keep their "branding" of the outlet store and would not be opposed to it as long as the signs were not internally lighted.

Mr. Kroner agreed with Ms. Monaghan.

Ms. Pohl commented on the green background panel of the sign. She said that, as it is proposed, it would add to the total square footage of the sign. If the background were to be painted on the wall it would not be included in the square footage of the sign.

Mr. Groth thought the Board calculated the size of signs by putting a bounding area around the letters.

Mr. Wilson read the definition of Wall Sign into the record: *A sign attached to, painted upon, placed against, or supported by the exterior surface of any building.* The Board concluded that the green background is included in the total square footage of the sign.

Mr. Groth commented that it cannot be a “one size fits all” when dealing with signs because the Board needs to consider the proportions of the façade and how the sign relates to the other surrounding buildings.

Mr. Kroner said that he has no problem with the size of the signs being proposed. He said the site is heavily blocked by other buildings and the sign is a great improvement over all the other signage in the plaza.

Mr. Wilson said that the green background has to be included in the size of the signs and said he would vote in favor of the signs, but not at the proposed size. The total square footage is proposed to be 170 square feet where 24 square feet is allowed.

Ms. Monaghan moved and Dr. Arena seconded the motion to approve the size of the signs as presented by the Applicant.

The vote passed in favor of the motion (3 in favor, 2 opposed and 1 abstention). Mr. Wilson and Ms. Pohl opposed.

Mr. Wilson moved and Dr. Arena seconded the motion to approve the Conditional Use Permit for the L.L. Bean Outlet signs provided that they are not internally illuminated ,and the dimensions and colors presented on the drawing submitted with the application are complied with.

Dr. Arena said that the Board should first get an idea on how the Applicant plans to externally light the signs.

Mr. Wilson said that the external lighting will have to comply with the “dark sky” standard.

Dr. Arena commented on internal illumination and said that it makes more sense to be able to control the lighting so that there is the least amount of light spillage. He said that there should be a provision in the Sign Ordinance for internal illumination because what he suggests is the most efficient way of doing it and asked that the Board members support it.

Mr. Kroner would like to form a Sign Ordinance subcommittee and said he would be happy to see Dr. Arena volunteer to Chair it.

The vote was unanimous in favor of the motion (5-0).

III. Other Business

1. Master Plan Update – Mr. Kroner reported that the Public Visioning Sessions will be held on Saturday, September 29, 2012 and Saturday, October 6, 2012 from 12:00 p.m. to 3:00 p.m. He said they decided to have them at noon because a lot of residents have young children that play soccer in the morning and

595 they thought they'd have a better response in the afternoon. He said that they plan on providing light
596 refreshments and will come up with a budget for it.

597

598 Mr. Groth said that at the first session they'll begin with an introduction and then Mr. Groth will give a
599 background on the Role of a Vision Chapter and Future Land Use Chapter of the Master Plan; they will
600 then break out into groups to discuss topics on transportation, Land use and design and community
601 services. The second Session will reveal the results of the first session and then there will be public
602 comments.

603

604 Mr. Groth suggested that the Vision Sessions be recorded by Channel 22; at the very least the second
605 Session should be recorded and televised.

606

607 Mr. Groth said that they will need volunteers and will take that up at the next work session.

608

609 Mr. Kroner said that he will try to put out an R.S.V.P. on the "flyers" so they can get an idea of how many
610 people plan on attending.

611

612 The Meeting adjourned at 9:55pm without objection.

613

614 Respectfully submitted,

615

616 Wendy V. Chase

617 Recording Secretary

618

619 **Approved September 18, 2012**