



REGULAR MEETING MINUTES
TOWN OF NORTH HAMPTON
ZONING BOARD OF ADJUSTMENT
June 16, 2004

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The Town of North Hampton Zoning Board of Adjustment (Board) met on Wednesday, June 16, 2004 in the Roberta T. Craig Room of the North Hampton Town Library.

Attendance

Present: (1) John Anthony Simmons, Chairman; (2) Michele Peckham, Vice-Chairman; (3) Ted Turchan; (4) Richard Luff, (5) Dick Wollmar seated for Susan Smith.

Alternate(s) Present: None.

Absent: Susan Halliday Smith

Staff Present: (1) Richard Mabey, Building Inspector; (2) Krystina Deren Arrain, Planning and Zoning Administrator/Recording Secretary

Mr. Simmons called the meeting to order at 7:05 PM.

Preliminary Matters; Procedure; Swearing in of Witnesses

Mr. Simmons noted that the variance standards [findings of fact] had changed because of a recent Supreme Court of New Hampshire ruling in the “Boccia vs. City of Portsmouth” case. As a result of the aforementioned case, the hardship standard now included options: (1) the Simplex standard that is characterized as a “use” hardship, and (2) the Boccia standard that is characterized as an “area” hardship.

Mr. Wollmar suggested that the Board waive the Boccia analysis because the applicants were not aware of the new hardship standard and should not be held to that standard for this meeting. Mr. Luff agreed with Mr. Wollmar. Mr. Simmons and Ms. Peckham felt the Board should adhere to the Boccia ruling because the Applications were filed after May 25, 2004 which was the date of the Boccia ruling. Mr. Simmons noted that the New Hampshire Municipal Association/NHMA was asked to provide the Board with some direction or special instruction on to how to apply the Boccia analysis. The Board had not received any input from the NHMA prior to the meeting.

Mr. Simmons moved and Ms. Peckham seconded the motion that the Boccia standard would be applied to all cases to which it pertained for the meeting.

The vote was unanimous (5-0).

Mr. Simmons remarked that the Rules of Procedure as well as other information was available at the literature table located in the rear of the meeting room. He swore in all persons present who would give testimony or present comment on matters to be considered by the Board. The Building Inspector distributed copies to Board members of the newly adopted Section 405 zoning ordinance.

Report of Agenda Notice

Ms. Arrain, Recording Secretary, noted that notice of the meeting was properly posted at the (1) Library, (2) Post Office and (3) Old Town Offices/Town Clerk and the (4) North Hampton Town Website and published in the Hampton Union on Friday, June 4, 2004.

New Business

2004:13 — Ronald Marshall/Signature Computer Plus, 200 Lafayette Road, North Hampton, NH 03862 – requested a Special Exception referencing Article V, Section 506.8 and 506.9. for installation of a 4-foot square A-Frame roadside sign. Property location: 200 Lafayette Road, I-B/R zone district, Tax Map #021-027-001.

Mr. Marshall commented that he had relocated his business from 112 Lafayette Road to 200 Lafayette Road two years ago. The building location is set back from the road and his business volume had been significantly decreased. Mr. Marshall observed that the lack of appropriate signage had a very negative effect on his business. His landlord was opposed to putting up a sign other than the current “address” sign denoting 200 Lafayette Road – Hampton Court. The landlord was amenable to Mr. Marshall displaying a small sandwich-board sign. Mr. Marshall noted that he received a violation notice from the Code Enforcement Officer because he displayed a sandwich-board sign, which was not allowed. Thus, Mr. Marshall applied to the ZBA for relief from his predicament. He added that he designed the least offensive-looking sign.

Mr. Simmons opened the meeting to public comments in support of the applicant’s request.

Nancy Briggs, 122 Lafayette Road, (C’Est Cheese business owner). Ms. Briggs stated that she operates a new business on Lafayette Road that is set back from the road that makes it difficult for potential customers to locate easily. She suggested removing the sandwich-board signs from the roadside at the end of the day. She noted that sandwich-board signs are used around the world and she stated that Route 1 is attractive and business owners attractively maintain the Route 1 business area. Ms. Briggs strongly supported the applicant’s request and suggested setting daytime limits on sign displays.

Referencing Zoning Ordinance Section 405.2.2.1, Mr. Marshall noted that the proposed sign would not diminish the value of surrounding property because it is a business district and the sign was not garish, oversized or unsightly. Referencing Zoning Ordinance Section 405.2.2.2, Mr. Marshall noted that the proposed sign would not unreasonably adversely affect the public interest, safety, health or welfare. He remarked that the sign’s composition was reasonable and tasteful.

Joe Guilmette, 122 Lafayette Road. Mr. Guilmette noted that potential customers are driving by at 45 mph and businesses needed promotional signs that attract customers to their location. He emphasized that roadside signs are used for promotions that attract customers and was critical to Route 1 businesses survival.

Mr. Simmons opened the meeting to public comments in opposition to the applicant's request. None were voiced.

Mr. Simmons noted that Zoning Ordinance Section 601 also addressed Special Exception standards. Mr. Turchan noted the importance of a safe sight distance at driveway entrances and referenced NH RSA 236:13. He stated that a sign must not obstruct a driver's view when exiting a driveway. Thus placement of a sign is a critical requirement. The Board was in agreement that if relief were granted, their concern would be that other tenants would request individual signs.

Mr. Wollmar suggested that the Board recommend a solution for a sign on a temporary (EX: six-months) as stated in Section 506.4. A. The Building Inspector explained that the ordinance referred to construction signs. Mr. Wollmar suggested granting relief under Section 506.8 under a temporary basis. Mr. Luff suggested a year's basis, giving enough time for the zoning ordinance to be changed to reflect appropriate signage for a multiple-tenant location.

Mr. Luff moved and Ms. Peckham seconded the motion to grant a Special Exception for Case #2004:13 for one (1) free-standing 4-foot square A-frame sign as submitted in the application for 200 Lafayette Road finding that it met the criteria in Zoning Ordinance Sections 405.2.2.1 and Section 405.2.2.2.

Special Conditions: The sign exterior would be constructed of plywood painted white supported by a black metal framework. A chain would hold together the two sides of the sign. The letters on the sign would consist of 5 rows of 6" letters on both sides of the sign. The letters shall be black and red on a white background. The track holding the letters shall be clear.

The vote was 3-1-1 with Mr. Turchan opposed and Mr. Simmons abstaining.

Mr. Simmons recessed the meeting at 8:30 PM.

Mr. Simmons reconvened the meeting at 8:44 PM

2004:14 — Rick Fucci/Route 1 Self Storage, 180 Lafayette Road, North Hampton, NH 03862 — requested a Variance to Article V, Section 506.3.C. for a 40-square foot ground sign where four signs currently exist on the parcel and one sign is permitted. Property location: 180 Lafayette Road, I-B/R zone district, Tax Map #017-086-000.

Atty. James Nocas, Portsmouth, NH, represented the applicant and explained the sign design and details. He emphasized that it was a locator sign with an arrow on both sides. Atty. Nocas stated that the current directory sign would be removed. He noted that the three existing signs on the property are all grandfathered. Atty. Nocas emphasized that when Mr. Fucci developed the Lafayette Acres Business Park, the Planning Board approved the site by applying Zoning Ordinance Section 403 that encouraged business growth and industrial installations in a campus-like arrangement. He remarked that the issue of the number of signs would not be an issue had the applicant subdivided the parcel into separate lots. Because of the campus-style lot configuration, Mr. Fucci remarked that he assumed an unexpected hardship regarding sufficient signage. He has 12 tenants who are located a substantial distance from Route 1 visibility and the locator sign should help identify their location. Mr. Fucci noted that he would install a directory sign beyond the business park entrance that would direct customers to each business site.

Atty. Noucas addressed the five criteria standards applying the “use” hardship criteria.
Mr. Simmons opened the meeting to public comments in either support of or opposition to the applicant’s request. – None were voiced.

Mr. Wollmar remarked that the proposed signage and changes would be an improvement over the current signage layout. Mr. Simmons asked the applicant to make notations on the site plan of the actual location of the proposed signage.

Mr. Simmons moved and Mr. Turchan seconded the motion to approve the request for Variance for Case #2004:14 including the changes as denoted on Exhibit 1 and 2 that consist of removal of two signs and placement of the proposed sign.

Special Conditions. The applicant will install the newly approved 40-square foot locator ground sign and remove the temporary banner sign and the current Lafayette Acres directory sign as shown on Exhibits 1 and 2 which were signed by the applicant and submitted for the record. The 40-square foot locator sign will denote (a) “180 Lafayette – Lafayette Acres – Business Park” in the upper portion and (b) “Route One Self Storage” in the lower portion and (c) will be bi-sected with a directional arrow.

The Board voted on the five criteria elements below for Case #2004:14: Rick Fucci/ 180 Lafayette Road/Lafayette Acres

| Find-ings of Facts | | Not Contrary to Public Interest | | Unneces-sary Hardship Exists | | Consistent w/Spirit of Ordinance | | Substantial Justice Will be Done | | Will Not Diminish Surrounding Properties | | Vote | | Vote | | Vote | |
|--------------------|--------------------------|---------------------------------|----|------------------------------|----|----------------------------------|----|----------------------------------|----|--|----|------|----|------|----|------|--|
| | | YES | NO | YES | NO | YES | NO | YES | NO | YES | NO | YES | NO | YES | NO | ABS | |
| Board | Simmons | X | | X | | X | | X | | X | | X | | | | | |
| | Turchan | X | | X | | X | | X | | X | | X | | | | | |
| | Luff | X | | X | | X | | X | | X | | X | | | | | |
| | Wollmar Seated for Smith | X | | X | | X | | X | | X | | X | | | | | |
| | Peckham | X | | X | | X | | X | | X | | X | | | | | |

The vote was unanimous (5-0); granting the Variance for Case #2004:14.

2004:15— Jack Murray/Pobama Trust, P.O. Box 2719, Seabrook, NH 03874 – requested a Variance to Article IV, Section 409.9.B.1. for relief from the 50-foot wetland buffer for the addition of a 6-foot by 10-foot deck that would be located 44 feet from the edge of an inland wetland; an encroachment of 6 feet into the wetland buffer. Property location: 4 Post Road, R-1 zone district, Tax Map #003-102-000.

The applicant distributed a photo of the rear view of the newly constructed home on the lot. Mr. Murray explained that he received positive comments on the manner in which he protected the

wetlands during construction of the home. He remarked that it was common for homes in North Hampton to have decks and commented that the house looked incomplete without a deck. Ms. Peckham suggested building the deck on the driveway side. Mr. Murray explained that because of the land use restrictions imposed upon the property, he was severely restricted in the placement of the home and septic system. He explained that because of the steepness of the driveway, he was concerned that if a vehicle lost control on ice, as in winter, the deck structures could be hit and would result in collapse of the deck. As a result, he felt his only option was to construct the deck at the rear of the house. He attempted to minimize the deck intrusion into the wetland buffer. The proposal he made to the Board was his best attempt to resolve the deck location issue.

Mr. Simmons opened the meeting to public comments in either support or opposition of the applicant's request. – None were voiced.

Mr. Murray addressed the five criteria standards applying the “use” hardship criteria.

Mr. Turchan moved and Mr. Luff seconded the motion to approve a variance to Article IV, Section 409.9.B.1. for relief from the 50-foot wetland buffer for the addition of a 6-foot by 10-foot deck that would be located 44 feet from the edge of an inland wetland buffer where 50 feet is required. The variance allows an encroachment of 6 feet into the wetland buffer.

Special Conditions. The intrusion into the wetland buffer shall consist of the installation of a maximum of three (3) sonotubes of 10” diameter.

The Board voted on the five criteria elements below for Case #2004:15: Jack Murray/ Pobama Trust / 4 Post Road.

| Find-ings of Facts | | Not Contrary to Public Interest | | Unneces-sary Hardship Exists | | Consistent w/Spirit of Ordinance | | Substantial Justice Will be Done | | Will Not Diminish Surrounding Properties | | Vote | Vote | Vote |
|--------------------|--------------------------|---------------------------------|----|------------------------------|----|----------------------------------|----|----------------------------------|----|--|----|------|------|------|
| | | YES | NO | YES | NO | YES | NO | YES | NO | YES | NO | YES | NO | ABS |
| Board | Simmons | X | | X | | X | | X | | X | | X | | |
| | Turchan | X | | X | | X | | X | | X | | X | | |
| | Luff | X | | X | | X | | X | | X | | X | | |
| | Wollmar Seated for Smith | X | | X | | X | | X | | X | | X | | |
| | Peckham | X | | X | | X | | X | | X | | X | | |

The vote was unanimous (5-0); granting the Variance for Case #2004:15.

2004:16 — Eagle Sign/ Maurice's Clothing Store, 5130 Park Avenue, Des Moines, IA 50321 – requested a Variance to Article V, Section 506.3.E. for a 87.73-square foot wall sign where only two twelve-square foot wall signs are allowed. Property location: 45 Lafayette Road [Lafayette Crossing Mall], I-B/R zone district, Tax Map #007-053-000.

Jonathan Dimoch, Sign-A-Rama, Portsmouth, NH represented the applicant. He detailed the specifics of the proposed signage. Mr. Dimoch stated that the applicant's store was located a sizeable distance from the road. As a result, the sign, as stipulated by zoning ordinance, would be barely visible. Ms. Peckham asked how the proposed sign measured up to the industry standard. Mr. Dimoch commented that Maurice's sign fell below the industry standard.

Mr. Simmons opened the meeting to public comments in either support or opposition of the applicant's request. – None were voiced.

Mr. Dimoch addressed the five criteria standards applying the "use" hardship criteria.

Ms. Peckham moved and Mr. Luff seconded the motion to approve a Variance to Article V, Section 506.3.E. for an 87.73-square foot-wall sign for Maurices Clothing Store.

Special Conditions. None.

The Board voted on the five criteria elements below for Case #2004:16: Eagle Sign/Maurices/45 Lafayette Road/Lafayette Crossing Mall.

| Find-ings of Facts | | Not Contrary to Public Interest | | Unneces-sary Hardship Exists | | Consistent w/Spirit of Ordinance | | Substantial Justice Will be Done | | Will Not Diminish Surrounding Properties | | Vote | Vote | Vote |
|--------------------|--------------------------|---------------------------------|----|------------------------------|----|----------------------------------|----|----------------------------------|----|--|----|------|------|------|
| | | YES | NO | YES | NO | YES | NO | YES | NO | YES | NO | YES | NO | ABS |
| Board | Simmons | X | | X | | X | | X | | X | | X | | |
| | Turchan | X | | X | | X | | X | | X | | X | | |
| | Luff | X | | X | | X | | X | | X | | X | | |
| | Wollmar Seated for Smith | X | | X | | X | | X | | X | | X | | |
| | Peckham | X | | X | | X | | X | | X | | X | | |

The vote was unanimous (5-0); granting the Variance for Case #2004:16.

Minutes from Prior Meeting

Review of May 19, 2004 Minutes

Mr. Simmons moved and Mr. Turchan seconded the motion to approve the minutes as edited by Mr. Simmons.

The vote was 4-0-1 with Mr. Wollmar abstaining.

Rules of Procedure Updated

Board members signed the updated Rules of Procedure that were adopted on May 19, 2004.

Adjournment

Mr. Simmons reminded the Board that the July 21, 2004 and August 18, 2004 meetings would be held in the Conference Room at the Town Offices.

Mr. Luff moved and Mr. Turchan seconded the motion to adjourn.

The vote was unanimous (5-0) to adjourn.

The meeting adjourned at 10:15 PM.

Respectfully submitted,
Krystina Deren Arrain,
Recording Secretary/Planning & Zoning Administrator