

Town of Farmington
Zoning Board of Adjustment Meeting Minutes
Thursday, October 5, 2017

Board Members Present:

Elmer Barron, Chairman
Joe Pitre
Elise Haig, Alternate
Bill Fisher, Alternate

Others Present:

Dan DeSantis, Town Planner
Brett Scott
Emily Tyler

Board Members Absent:

John Aylard, Vice Chairman, excused
Joanne Shomphe
Paul Parker

BUSINESS BEFORE THE BOARD:

Alternates Seated:

Chairman Barron asked Ms. Haig and Mr. Fisher to be seated in the absence of Ms. Shomphe and Mr. Aylard.

Review of Meeting Minutes: No errors or omissions

August 3, 2017-

Motion: (Pitre, second Fisher) to approve the minutes as written passed 4-0.

Any Other Business to Come Before the Board: None

NEW CASES:

Application for Variance from Article 3.09 “Signs” Section (C) (2) (b) to permit more than one wall mounted sign in the Commercial/Industrial Business Overlay District. Parcel is located at 438 NH Route 11 (Map R20, Lot 25).

Chairman Barron identified the property as the former site of the Wagon Wheel Convenience Store on Rte. 11.

Mr. Scott and Ms. Tyler came forward representing the applicant, 438 NH Route 11 Farmington SH LLC. Mr. Scott told the board there is currently one LED sign on the building which is 12’ x 3’ long. He said they would like to put a 2’ x 7’ sign on each end of the building so motorists passing in either direction on Route 11 can identify the business. He said the current sign ordinance only allows one sign on the exterior of the building and that they came before the board requesting a Variance from the ordinance.

Mr. Barron said the ordinance also limits the amount of square feet for a sign and that Mr. Scott’s proposal would exceed the 50 square foot limitation.

Mr. Barron also noted the applicant had requested a Variance from Article 3.09, Section (D) (1) (b) on the Variance application form instead of from Section (C) (2) (b) as stated on the agenda and asked which is the correct section.

Mr. DeSantis said a Variance would be needed from Section (C) (2) (b) to allow two signs on the building.

Mr. Barron then asked the board to review the Criteria for a Variance.

1). The Variance will not be contrary to the public interest.

Applicant's Response- We believe given the location is parallel to the road and has multiple facings, the signage will appear conservative in its surrounding area.

Planner's Comments- The location is on the main thoroughfare (NH Route 11) and is located in a commercial area. Signage of the size indicated (2' x 7') will likely not be contrary to the public interest.

Mr. Pitre said this will increase the amount of signage by about 22%.

Mr. Barron asked for the size of the current front sign on the property.

Mr. Scott said the front sign is 36 sq. ft. and each of the proposed wall mounted signs would be 14 sq. ft. in area (total 64 sq. ft. of signage).

Ms. Haig said she understood wanting a sign for the southbound side of the road as drivers waiting in traffic could see it and pull into the business without having to interfere with traffic by crossing the traffic lanes.

Mr. Fisher asked if the proposed LED signs would be capable of scrolling.

Mr. Scott said he understood that the Town does not allow scrolling signs and that he was not asking to install scrolling signs.

Mr. Fisher said they are allowed but there is a limit as to how fast they can scroll or change appearance.

Mr. Scott said the proposed signs would be static with changes to the message as often as allowed.

Mr. Barron cited the sign in Rochester that almost blinds drivers with its brightness and asked Mr. Scott if he intended to "crank up" the brightness of the signs.

Mr. Scott said the sign is only 2' x 7' and he did not think it needed to be that bright and added he didn't need the electricity bill that goes along with bright lights. It will be conservative he said.

2. The spirit of the ordinance is observed.

Applicant's Response- We believe that the purpose of a clean conservative appearance will be upheld.

Planner's Comments- The proposed small size of the signs and conformance to Section 3.09 (D) Sign Properties would generally indicate that the spirit of the ordinance is being observed.

Mr. Barron read aloud the Sign Properties section as included in the Planner's Comments and asked about the meaning of Section (D) (3) which prohibits advertisements in the form of a billboard.

Mr. DeSantis said gave the example that a business owner couldn't advertise that pipes were on sale for 50% off.

Mr. Scott asked if the prohibition was against advertising for other businesses.

Mr. DeSantis said the sign can only identify the business and no advertising is allowed. He added

that the town feels very strongly about the prohibition against advertising and if there was advertising included on a sign it would be removed.

Mr. Scott said due to the small size of the signs he did not think there would be much room for advertising anyway.

Mr. Barron suggested the sign could repeat the name of business but couldn't say "cigarettes for sale".

Mr. Scott asked if the sign could simply say "Cigarettes".

Mr. DeSantis said it could not as that is a form of advertising.

Mr. Fisher said the sign ordinance was changed at the last Town Meeting to allow sign messages to change as frequently as every 30 seconds and that signs may inform the public about the availability of goods and services at the business. He stressed the need for the ordinance documentation to be updated to reflect the most recent changes.

3). Substantial justice is done.

Applicant's Response- The amount of signage is consistent with the surrounding businesses that often have stand alone signs and additional types of signage.

Planner's Comments- The board must determine if the loss to the applicant in not granting the Variance is outweighed by the gain to the general public.

Mr. Fisher said he felt that having two signs would not have any effect on the general public and will make his business stand out. He said it can help it grow and that he did not see a problem with having two signs.

Mr. Pitre reiterated it is only an increase of 22% which he felt was not much over the ordinance requirement. He said the town needs to look to the viability of business and to attract business not drive them away.

Mr. Scott said this is a business his family owned in the past and then someone else purchased it and ran it out of business. He said they are now re-doing the building to freshen and clean up the look of it to bring it back from the bad stigma of the previous owner.

4).The value of surrounding properties are not diminished.

Applicant's Response- The overall changes at 438 NH Route 11 have helped the Farmington business district. The removal of the gas pumps has also eliminated the risk of contamination to surrounding properties. The overall end result with greater exposure will be another successful business on Route 11.

Planner's Comments- The size of the proposed LED signs is not likely to diminish the value of surrounding properties in the CIBO district.

Ms. Haig said there is a restaurant on one side of the building and Aroma Joe's coffee shop on the other side and asked about the water source there.

Mr. Scott said the Aroma Joe's is in the process of bringing town water across the street to their parcel and the former Wagon Wheel site is using a private well as its water source. He added they plan to explore bringing town water to their site in the future.

Mr. Barron said the state would not let anyone cut a trench into a state road, especially at such a busy intersection and would make them bore under the road to install water lines which would

not be inexpensive. He said he could not see where the addition of the signs would diminish the value of the surrounding properties.

5). Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

Applicant's Response- It would be greatly appreciated if this was accepted and help the business.

Planner's Comments- By its basic purpose, a zoning ordinance imposes some hardship on all property by setting lot size dimensions and allowable uses. When the hardship so imposed is shared equally by all property owners, no hardship exists. Only when some characteristics of the particular land in question make it different from others can unnecessary hardship be claimed. All properties in the CIBO district are subject to the same zoning ordinance and allowable uses. Mr. Pitre said that the applicant has to be able to advertise his product and if he doesn't have the visibility he could have the best product in the world and no one will stop there because this is a "people passing by" type business. If they don't see it because there isn't enough of an impact he won't succeed he said.

Mr. Barron said he didn't necessarily disagree with Mr. Pitre but everyone there has to live with the same burden. He said the size of the signs is not a huge difference from what is allowed in the ordinance.

Ms. Haig asked if the abutters were notified of the meeting.

Mr. Barron said the abutters were notified but said that just because the abutters were not in attendance at the meeting and did not appear to care about the Variance request doesn't mean the board should ignore the ordinance. It doesn't mean the board can't do this but the members have to get their reasons right for granting the variance he said.

Mr. Fisher said he did not think it would create a hardship if they were not allowed to have two signs as the business could still open. By installing two signs it will increase business but he didn't see that a hardship would exist if the request were denied he said.

Mr. Barron said the fact that it would help his business to have two signs is not something the board can consider. He said they can only consider the unnecessary hardship so they need to find an unnecessary hardship the board can live with in order to grant the variance.

Mr. DeSantis then suggested a way to find the hardship. He said the fact that Route 11 has been expanded one could argue that because of the expansion the cars go faster and that it takes more time to identify a sign than if it was the old two lane highway. One could argue that the circumstances of the properties have changed and one small sign on the north side of the building and one on the south side of the building would allow the driver to identify the business he said.

Mr. Fisher asked if the applicant plans to put a sign out front near the road.

Mr. Scott said he has no plans to install a sign in front of the building and only plans to install the two wall mounted signs.

Mr. Barron said that in the past sign issues were addressed through the Building Inspector and the Planning Board without the restrictions faced by the ZBA. The sign ordinance set a maximum size for a sign that the Building Inspector could issue a permit for and if the applicant wanted a larger sign it was addressed by the Planning Board during the site review process he

said.

Mr. Fisher said the application didn't come before the Planning Board for Site Plan Review because it was a "smoke shop" previously and considered a pre-existing use so a review was not required.

Mr. Pitre recalled that B & B Auto was granted a Variance to install more signs than allowed by the ordinance due to the location of the property at the corner of Route 11 and Meetinghouse Hill Road. He said that as long as the signage is not an eyesore the spirit of the ordinance is kept.

Mr. Fisher added that the Irving Station also has multiple signs.

Mr. Barron said the Irving Station signs as well as the ones for his business were addressed through the Site Plan Review process before the ordinance changed to its present status.

Mr. DeSantis said if the Town had a Form Based Codes system in place there could be sign code for each area in town. He added the Town would still have to guard against over signage.

Consensus of the board was that given that the speed of the traffic on Route 11 reduces the visibility of the sign on the front of the building, it would create an unnecessary hardship to deny the Variance.

Mr. Barron repeated his concerns regarding the potential brightness of LED signs particularly for drivers driving at night. He asked Mr. Scott if the amount of light for the proposed signs can be adjusted to control the brightness.

Mr. Scott said the light levels are controllable and that he has two businesses in Manchester with much larger signs and has never had a complaint from the City of Manchester about the signs.

Mr. DeSantis suggested requiring the light levels to be reduced by 30% at dusk.

Mr. Fisher said the proposed wall mounted signs would be located far enough back from the road that they would not be a detriment to driving. He said the new ordinance states that lighted signs shall not obstruct motorists' visibility and not spill light on the adjacent road or properties. He advised Mr. Scott to keep it down enough so as not to light up his neighbors or the road which is a code enforcement issue.

Motion: (Pitre, second Fisher) to grant the Variance request as requested passed 4-0.

Adjournment:

Motion: (Fisher, second Haig) to adjourn the meeting passed 4-0 at 7:40 p.m.

Respectively submitted

Kathleen Magoon

Recording Secretary

Elmer Barron, Chairman

