

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
June 12, 2007

A public hearing of the Zoning Board of Adjustment was held on Tuesday, June 12, 2007 at 6:30 PM in the Auditorium at City Hall.

Sean Duffy, Chair, conducted the meeting.

Members present were: Sean Duffy, Chair
Jack Currier, Vice Chair
Rob Shaw
Claire McHugh
Bob Carlson (6:50 p.m.)
Carter Falk, Deputy Planning Manager/Zoning

Mr. Duffy explained the Board's procedures, including the points of law required for applicants to address relative to variances and special exceptions. Mr. Duffy explained how testimony will be given by applicants, those speaking in favor or in opposition to each request, as stated in the Zoning Board of Adjustment (ZBA) By-laws. Mr. Duffy also explained procedures involving the timing light.

- 1. James A. & Marilyn H. Forest (Owners) 131-139 Daniel Webster Highway (Sheet A Lot 747) requesting variance to exceed maximum number of ground signs, 1 allowed, 1 existing, 1 additional ground sign requested. GB Zone.**

Voting on this Case:

Sean Duffy
Jack Currier
Rob Shaw
Claire McHugh

Don Reid, Barlo Signs, Hudson, NH. Mr. Reid stated that they are requesting an additional ground sign, primarily for Ocean National Bank, but will contain other tenant panels. He believed it was originally a directional sign, but staff indicated it is another ground sign. He said the sign will go at the right turn off of the access road that leads to the new Lowe's and BJ's. He said it will direct traffic into the plaza off to the right.

Mr. Reid showed a photo of the area, and described its proposed location. Mr. Reid went over the area variance points of law. He stated that it will be a benefit to direct traffic into this plaza, and will be a great public benefit.

Discussion ensued between the Board and the applicant. The Board discussed the line of sight going up and down the access road, and whether the sign would block anyone's view.

Mr. Reid said they could move the sign further to the east to alleviate any line of sight issues. Mr. Reid said the proposed sign should help to alleviate traffic issues from Daniel Webster Highway. Mr. Reid said there is little advertising value from the sign; it will be better served for directional purposes. He said it is more of a back entrance.

SPEAKING IN FAVOR:

No One.

SPEAKING IN OPPOSITION OR WITH CONCERNS:

No One.

MOTION by Mr. Duffy to grant the area variance, it is needed to enable the applicant's proposed and reasonable use of the property given the special conditions of the property. He stated that this is a site that has no curb cut on the main highway, and is using a rear access road, so reasonable direction with this sign, should be allowed. Mr. Duffy stated that the benefit sought by the applicant cannot be achieved by some other method reasonably feasible, given that this is the main entrance into the site.

Mr. Duffy said it is within the spirit and intent of the ordinance that ground signage that is still below the total signage allowed for the site and building.

Mr. Duffy said it should not adversely affect the property values of surrounding parcels; it is reasonable directional signage, given that this is an access to the rear of the site.

Mr. Duffy stated that it is not contrary to the public interest, and substantial justice is served that directional signage be allowed, to facilitate the traffic.

Mr. Duffy said the special conditions are that the sign is not to exceed a total of 72 inches in height, 46 inches at the top, and 20 inches above the guardrail area. Also, that the center of the proposed signage will be in correlation to the site to the center of where the existing tree is, assuming there are no property line problems. He said this is for approval of a partially illuminated sign, one or two sided.

Mr. Shaw asked about the 20 inch description in the special condition.

Mr. Duffy said it should be 20 inches wide above the guardrail area, which will allow them to - it will go along with the line of sight, or whatever they need to cantilever the view of a potential structure underneath the guardrail area. He said he doesn't want to see a 46 by 72 foot sign in that area, he wanted to be specific in relation to the application, because of the line of sight issues.

Mr. Shaw stated it should be 24 inches, as stated in the diagram.

Mr. Duffy said yes, it should be 24 inches, 46 inches at the top.

Mr. Shaw said he's not sure how clear it is when we reference to the center of the sign to the center of the tree. In some fashion, it's really hard, as you could draw a straight line between any two points, so the sign could be pushed out towards the street, but it's difficult to know where the line is. He said the intent is to preserve the sight lines.

Mr. Duffy said the applicant did not have a clear measurement system away from the property lines or the street area, and he felt a little bit uncomfortable about it. He said maybe we could include in the stipulations that it is perpendicular to the access road down to the center. He said the applicant understands what we are talking about.

Mr. Falk said if you use a reference to a tree - the tree may die or get hit by lightning and then the tree is gone, and so is your reference to the tree. He said it is better to use some kind of measurement, or a setback, preferably from a setback or the edge of pavement. He said that the applicant's drawing shows the sign at 8 feet from the edge of the pavement.

Mr. Currier said he doesn't want to get to design things. He said that the intent is that the sign does not impair the line of sight, with the onus on the applicant.

Mr. Duffy said he'd withdraw the stipulation.

Mr. Currier recommends the one sentence about the center of the sign moved easterly to a point approximately from the center of the tree - to change it to read that the location of the sign is to not obstruct the line of sight looking northerly up Sagamore Ridge.

Mr. Duffy thought that was even vaguer, as peoples opinion of the line of sight may differ.

Mr. Currier said it's not specific, but didn't believe the Board could be specific.

Mr. Falk said the land slopes down a little bit, so they could do some filling around the base of the sign. He said the sign should be so placed so that it doesn't block anyone's visibility as they're driving up the hill.

Mr. Currier said that is subjective.

Mr. Duffy suggested an additional 2 feet further east from where the sign is proposed on their drawing.

Mr. Falk said in the General Business and Highway Business zones, the ordinance permits signs to be 20 feet tall, 150 square feet in size, and 10 feet from the right of way. He said if the sign were to be 10 feet away from the roadway; it should be more than sufficient for line of sight issues.

Mr. Duffy said that the sign is to be placed an additional 2 feet east from where it is on their drawing.

SECONDED by Mr. Shaw.

MOTION APPROVED 3-1 (Mr. Currier).

- 2. City of Nashua (Owner) 315 Main Street (Sheet 100 Lots 4, 66) requesting special exception to work in the prime wetland buffer of Salmon Brook for construction activities for Rotary Common, including dam repair, walkways, lawns and landscaped areas. GB/MU Zone.**

Voting on this Case:

Sean Duffy
Jack Currier
Rob Shaw
Claire McHugh
Bob Carlson

Mr. Duffy stated that he is a Rotarian, and has no financial interest in this case. The Board members as well as the audience had no problems with him hearing and voting on this case.

Joseph Lowry, Engineer, Louis Berger Group, Manchester, NH. Mr. Lowry said the property is a 2-acre piece of land on the western side of Main Street, and Salmon Brook divides the property. He said there are no wetlands being impacted, just the buffer area. He indicated the location on a map.

He indicated the existing conditions of the property from another graphic, and described what is there, such as pavement and the foundation from a building that was taken down.

Mr. Lowry said there is about 16,000 square feet of area in the prime wetland buffer. The intent is to create a pedestrian oriented park, and additional walkways for pedestrian activity. Also, there will be a pedestrian bridge over the Salmon Brook to provide for scenic views. He said there will be a net improvement to the wetland buffer, as some of it will be restored. He said there will be some improvements to the dam, as well.

Mr. Lowry said there will be significant improvement to public safety. With the assistance of the Board, Mr. Lowry went over all the wetland points of law.

Mr. Shaw asked about the Conservation Commission stipulations, and Mr. Lowry said they agree to them all. They are also scheduled to go to the Planning Board with their site plan as well.

Ms. McHugh stated that she was pleased that the site will have signage describing the history of the site, and there will be lighting as well.

Mr. Carlson asked who will maintain the site after completion.

Mr. Lowry said the City of Nashua.

SPEAKING IN FAVOR:

Steve King, Steve King Auto, Main Street. Mr. King asked if the debris will be removed on the site, there was an old factory that was there and said there is an old storeroom near the dam. He said he is in favor of the application.

Kathy Hersh, Community Development Director, City of Nashua. Ms. Hersh said the site has a rich industrial history, and they have gone through the Phase I and II applications. She said the park will celebrate the industrial history of Nashua. She said the project is proceeding very well, as planned. She said the area that Mr. King asked about will be filled and will be safe, and all debris will be removed. She said the first phase you'll see is the part north of the river.

Mr. Carlson asked about the projects cost.

Ms. Hersh said there is a lot of support for the project, and many entities and groups are interested in helping the project to fruition, there are many funding sources to fulfill the project.

SPEAKING IN OPPOSITION OR WITH CONCERNS:

No One.

MOTION by Mr. Currier to grant the special exception. He said it is listed in the Table of Uses, Section 16-271. He said it will not create undue traffic congestion or unduly impair pedestrian safety, per testimony, pedestrian safety will be substantially improved. He said there will be no impact on public water, drainage or sewer or other municipal systems, if anything, the drainage will be improved with the improvements on the site. He stated that the special regulations are fulfilled, per testimony. Mr. Currier said it will not be out of character with the neighborhood, it will improve the health, morals and welfare of the residents by improving the area overall.

Mr. Currier said the special conditions are that the six stipulations from the June 5, 2007 Conservation Commission meeting are included, and they will adhere to them.

SECONDED by Mr. Shaw.

MOTION CARRIED UNANIMOUSLY 5-0.

REHEARING REQUESTS:

None.

MINUTES:

May 8, 2007

May 22, 2007

MOTION by Mr. Duffy to accept the minutes, waive the reading, and place them in the file.

SECONDED by Mr. Currier.

MOTION CARRIED UNANIMOUSLY 5-0.

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REGIONAL IMPACT:

The Board determined that none of the cases were determined to have regional impact.

ADJOURNMENT:

Mr. Duffy called the meeting closed at 7:41 p.m.

Jack Currier
Acting Clerk

CF
Taped Hearing