

08/10/15

## HILLSBOROUGH ZONING BOARD

Meeting Minutes

August 10, 2015

Date Approved: October 19, 2015

Present:

Members: Chairman Roger Racette, Russell Galpin, Michael McEwen, John Segedy

Alternates: Larry Baker and Nancy Torres

Planning Director: Robyn Payson

Absent:

Members from the Public: Brett Cherrington, Lisa Cherrington, Peter Perry, Dawn Doucette and Austin Turner

Chairman Racette called the meeting to order at 7:06 pm.

Chairman Racette appointed Mrs. Torres to vote in the place of the vacancy due to the resignation of Richard Booth.

### **MINUTES:**

Chairman Racette made a motion to table the approval of the minutes of July 13, 2015 due to the members not receiving a copy prior the meeting. Mrs. Torres seconded the motion. The Board voted all in favor.

### **PUBLIC HEARING:**

#### **Variance from Zoning Ordinance Section 229-35 – Sign Ordinance – submitted by Nobel Development for Tractor Supply:**

Chairman Racette said the first request is from Section 229-35 C (1) (a): The maximum allowable total area for all signs on the property shall not exceed one square foot of sign area for ever one lineal foot of building frontage. The proposed building consists of 125± feet of building frontage. The request for the variance is to construct a 76.25± square foot pylon sign and 109.5± square foot wall sign for a total signage area of 185.75± square feet, exceeding the Zoning requirement of 125 square feet maximum.

The second request is from Section 229-35 C (1) (b): The maximum height for a ground sign is 18 feet and the maximum area is 50 square feet. The request for a variance is to construct a pylon sign with a total height of 20 feet and a total area of 76.25± square feet.

The third request is from Section 229-35 C (1) (c): The maximum height for a wall sign is five feet and the maximum width is 40% of the width of the wall on which it is located. The request for a variance is to construct a wall sign with a height of 6'1" and a width of 18'. The wall sign width will be approximately 67% of the width of the 27± foot wall on which it is located however, will be 14.4% of the width of the total building frontage.

08/10/15

Chairman Racette continued to the criteria A: Granting the proposed Variance will not be contrary to the public interest because: He read from the application that the proposed signage will be in harmony with the proposed use and the surrounding commercial uses. The proposed signage will represent no nuisance to the surrounding area. The proposed signage is in harmony with the building architecture and is required to identify the proposed use and location to motorists. The building is located such that its visibility from the road may be limited. Enhanced signage is necessary to make this a viable location.

Mr. Turner explained because of the location of the building, the lots topography and foliage affects the visibility of the store from the road. He said the signs will be lighted internally.

Chairman Racette went on to the criteria B: Granting of the proposed Variance will observe the spirit of the Hillsborough Zoning Ordinance because: He read from the application that the proposed signage is typical for this use and similar commercial developments. It is in the spirit of the Hillsborough Zoning Ordinance which defines the parcel and surrounding area as a commercial district intended for uses of the type and scale.

Mr. Turner said this corridor is zoned for commercial use and the signs being proposed are the type and scale commonly proposed for this type of building.

Chairman Racette went on to the criteria C: Granting the proposed Variance will do substantial justice because: He read from the application that granting the proposed variance will allow for the tenant to install signage typical for their program and allow them to sufficiently advertise their business. With some of the visibility limitations at this location, signage enhancements are needed to make customers aware of the use.

Mr. Turner said Tractor Supply has a preexisting sign packages for facilities of this size.

Chairman Racette went on to the criteria D: Granting the proposed Variance will not diminish the values of the surrounding properties because: He read from the application that the surrounding properties across West Main Street and adjacent to the site contain commercial uses and/or are within the commercially zoned district. The proposed variance will be in harmony with the surrounding commercial uses and therefore will not diminish their value. The project proposes to maintain significant existing vegetated buffers to abutting properties and is sufficiently set back from the site boundaries to minimize the project's visual impact.

Mr. Turner said that introducing Tractor Supply to this community will enhance the property values along this corridor.

Chairman Racette went on to the criteria E: Literal enforcement of the provisions of the ordinance will result in an "unnecessary hardship" because: Part (1) Owing to special conditions of the property that distinguish it from other properties in the area: (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and (ii) The proposed use is a reasonable one because: He read from the application that the proposed signage is typical for the proposed use and similar commercial properties and is appropriate for the use and location. As previously noted, visibility from the public way is of concern given the building's distance from same and

08/10/15

the vegetated buffers that will remain. The proposed signage is necessary to identify the use to prospective customers.

Mr. Turner said we have already addressed the topography from Route 9 and wetland locations.

Chairman Racette went on to the second part of criteria E: (2) If the criteria in subparagraph E (1), immediately above, are not established, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonable used in strict conformance with ordinance, and a variance is therefore necessary to enable a reasonable use of it because: He read from the application that the proposed signage variance is reasonable because it is typical for the proposed use and similar commercial developments and is needed to properly identify the facility.

Mr. Cherrington voiced his objection to raising the pylon sign two feet and increasing the size.

Chairman Racette closed the public input portion of the public hearing at 7:50 p.m.

Mr. Galpin pointed out that if you allow this pylon sign then what is the next developer going to ask for. He had no concerns regarding the extra two feet in height but was concerned about the request for an almost 50% increase in the size of the sign itself. He said the sign could be relocated on the other side of the driveway.

Mr. Segedy made a motion to reopen the public input portion of the public hearing. Chairman Racette seconded the motion. The Board voted Chairman Racette, Mr. Segedy and Mr. McEwen – yes and Mr. Galpin and Mrs. Torres – no.

Mr. Turner said the driveway is very close to the property line so moving the sign wouldn't be an option.

Chairman Racette reclosed the public input portion of the public hearing.

Mrs. Torres said she had no problem with the building sign but does regarding the pylon sign.

Chairman Racette asked if the Board was ready to vote on the wall sign. The Board answered yes.

Mrs. Torres made a motion that applies to all five criteria to approve the wall sign as proposed. Mr. Galpin seconded the motion. Mr. Galpin – yes, Mr. McEwen – yes, Mrs. Torres – yes, Mr. Segedy – yes and Chairman Racette – yes

Chairman Racette announced the vote was unanimous and the wall sign as proposed is approved.

Chairman Racette made a motion to approve the variance to allow a 20' pylon sign as opposed to the required 18'. Mr. Galpin seconded the motion. Mr. Segedy – yes, Mr. Galpin – yes, Mr. McEwen – yes, Chairman Racette – yes and Mrs. Torres – no.

Chairman Racette announced the vote was 4 to 1 therefore the 20' pylon as proposed is approved.

08/10/15

Chairman Racette said on the area of the sign, the request is to allow a 76.25 square foot sign instead of a 50 square foot sign as allowed by the ordinance.

Chairman Racette said on criteria A: Granting the proposed Variance will not be contrary to the public interest. Mr. Galpin – no, Mr. McEwen – no, Mrs. Torres – no, Mr. Segedy – no and Chairman Racette – no

Chairman Racette said on criteria B: Granting of the proposed Variance will observe the spirit of the Hillsborough Zoning Ordinance. Mr. Galpin – no, Mr. McEwen – no, Mrs. Torres – no, Mr. Segedy – no and Chairman Racette – no

Chairman Racette said on criteria C: Granting the proposed Variance will do substantial justice. Mr. Galpin – no, Mr. McEwen – no, Mrs. Torres – no, Mr. Segedy – no and Chairman Racette – no

Chairman Racette said on criteria D: Granting the proposed Variance will not diminish the values of the surrounding properties. Mr. Galpin – yes, Mr. McEwen – yes, Mrs. Torres – yes, Mr. Segedy – yes and Chairman Racette – yes

Chairman Racette said on criteria E: Literal enforcement of the provisions of the ordinance will result in an “unnecessary hardship” because: Part 1: Owing to special conditions of the property that distinguish it from other properties in the area: (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and (ii) The proposed use is a reasonable one. Mr. Galpin – no, Mr. McEwen – no, Mrs. Torres – no, Mr. Segedy – no and Chairman Racette – no

Chairman Racette said that seeing that part one failed we go on to part two: If the criteria in subparagraph E (1), immediately above, are not established, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonable used in strict conformance with ordinance, and a variance is therefore necessary to enable a reasonable use of it. Mr. Galpin – no, Mr. McEwen – no, Mrs. Torres – no, Mr. Segedy – no and Chairman Racette – no

Chairman Racette made a motion to deny the variance request for the larger pylon sign. Mrs. Torres seconded the motion. The Board voted all in favor.

Mrs. Torres made a motion that the construction of the square footage of the pylon sign is 50 square feet and the square footage of the wall sign is 109.5 square feet making a total sign area of 159.5 square feet which exceed the zoning requirement of 125 square feet maximum. Mr. Galpin seconded the motion. The Board voted all in favor.

Mrs. Payson and Mr. McEwen left the meeting at this time.

**PUBLIC MEETING:**

08/10/15

Mr. Segedy made a motion to recommend Mrs. Torres for full membership to the Board to fill the vacancy left by the resignation of Richard Booth. Mr. Galpin seconded the motion. The Board voted all in favor.

Chairman Racette said at the next meeting the Board will need to elect a vice-chair.

Mr. Segedy said he is in favor of changing special exceptions to conditional uses. He said conditional uses are approved by the Planning Board instead of the ZBA approving special exception. He said this would make the ZBA more of an appeals board.

Chairman Racette said the Board needs guidance regarding special exception in order to make the process less subjective. He paraphrased from a list of criteria, from "New Hampshire Practice Series: Land Use Planning & Zoning: written by Peter Loughlin, they could use for the granting of a special exception.

The Board discussed the guidelines and plan on presenting them to the Planning Board for their review and acceptance.

The Board discussed several other ordinances including floodplain.

**ADJOURNMENT:**

Mr. Galpin made a motion to adjourn. Mrs. Torres seconded the motion. The Board voted all in favor.

Chairman Racette announced the meeting adjourned at 9:10 p.m.

Respectfully Submitted:

Iris Campbell  
Land Use Administrator