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COMMUNITY DEVELOPMENT

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**Zoning Board of Adjustment Draft Minutes
February 25, 2014**

Board Members:

Heath Partington, Chairman – Present
Jim Tierney, Vice-Chairman – Present
Mark Samsel, Secretary – Present
Jay Yennaco, Member – Excused

Mike Scholz, Member – Present
Mike Mazalewski, Alternate – Present
Tony Pellegrini, Alternate – Excused
Kevin Hughes, Alternate – Present

Staff:

Nancy Prendergast, ZBA/Code Enforcement Administrator
Laura Accaputo, ZBA Minute Taker

The Chair called the meeting to order at 7:30pm, introduced the Board and Staff, and explained the meeting process.

The Chair sat Mr. Mazalewski for Mr. Yennaco for Case #1-2014.

Public Hearings

Mr. Samsel read Case #1-2014 into the record along with a letter dated February 25, 2014 from Thomas Leonard, Esquire requesting to withdraw the appeal.

Lot 21-G-23A, Case #1-2014 (continued from 01/14/14)

Applicant – Laura Swenson
Owner – Same
Location – 187 Range Road
Zone – Residence A, Cobbetts Pond/Canobie Lake Overlay District

An Application to Appeal an Administrative Decision has been submitted regarding a decision written by Bernard H. Campbell, Esq. in his letter of November 18, 2013 to Thomas J. Leonard, Esq. re: Laura Swenson, 187 Range Road, Windham NH 03087.

The Chair opened the hearing to the public at 7:35pm and hearing none closed the public portion.

Mr. Scholz motioned to accept the withdrawal for Case #1-2014, seconded by Mr. Samsel. The Chair took a roll call vote: Mr. Mazalewski – yes; Mr. Samsel – yes; Mr. Scholz – yes; Mr. Tierney – yes; The Chair – yes. Motion passed: 5-0.

The Chair sat Mr. Hughes for Mr. Mazalewski for Case #4-2014.

Mr. Samsel read Case #4-2014 into the record along with the abutter list and a letter of authorization from the owner allowing Jutras Signs to represent them in this case.

Lot 13-A-196, Case #4-2014

Applicant – Jutras Signs, Inc.

Owner – Simsbury Partners, LLC
Location – 5 Industrial Road
Zone – Limited Industrial District

A variance is requested from the following sections of the Zoning Ordinance:

Section 706.4.2.1 - to allow (2) free-standing signs identifying a commercial complex where only (1) is allowed; and

Section 706.8 - to allow a front setback of 3 feet for a free-standing sign where 10 feet is required.

- Cathy Champagne of Jutras Signs addressed the Board. She explained the request is for two free standing signs. Two signs currently exist, one free-standing and one directional. Since tenant names have been added to the directional sign it is now considered free standing and requires a variance to allow a second free standing sign. The location and dimensions of this sign will not change. She then read the five criteria into the record.

Questions/Comments from the Board

- Mr. Scholz stated he drove by the area and noted the proposed changes have already been made and therefore is not proposed but existing.
- Ms. Champagne replied they applied for a temporary sign permit to make the changes. Ms. Prendergast stated she was not sure if she had an application for temporary signage.
- Mr. Tierney asked if the signs are in the Site Plan and Ms. Prendergast replied the Planning Board denied the second free standing sign and wanted them to go through the Zoning Board process. The next step will be to update the Site Plan.

The Chair opened the hearing to the public at 7:55pm.

- Mike Greenberg of Simsbury Partners, owner, stated his tenants, the Eliot Hospital, requested this sign because their patients are having trouble finding the business. He supports the request and believes it is reasonable due to the location of the property.
- Mr. Samsel asked if all of the properties tenants would be served by the sign and Mr. Greenberg answered the Eliot takes up 3/5 of the space; of the two other tenants only one has expressed interest.
- Tom Case stated he drives this location daily and has never noticed the sign on Industrial Drive. He believes the second sign helps people to locate the business and he supports the request.
- Fred Connors, 3 Industrial Drive, stated initially he thought the request was to move the sign closer to the road and he had safety concerns. He noted as long as the sign stays as is (location and size) he has no concerns. If the sign is made larger or moved closer to the road he believes there will be sight line issues. He also noted a request for a variance for something that already exists is confusing.
- The Chair asked if the directional sign had to meet the setback requirement and Ms. Prendergast replied it does not necessarily have to meet the setback requirements. The Chair then clarified that since the sign changed from directional to free standing it now has to meet the setbacks and that is why they are requesting the variance.
- Mr. Tierney asked since they are replacing the sign why not just move it back to meet the setback requirement and Ms. Champagne replied they are not replacing the sign just adding new words.
- Mr. Scholz stated he is struggling with the need for two signs.

- Mr. Tierney asked if they could flip the signs. He stated he has a problem with the location of the sign and believes it creates a sight issue and would be better suited further back.
- Ms. Champagne stated the signs have been in place since the business opened and there have been no issues with the location. The tenant names are on there temporarily and they are asking to make it permanent. She believes if there were going to be any problems they would have happened already.
- Mr. Scholz stated by adding the tenant's names to the sign it makes it busier and that is why he believes there could be safety concerns.
- Ms. Champagne asked if it has more copy and you move it back wouldn't that make it harder to see?
- Mr. Tierney and Mr. Scholz both stated their concern that vehicles approaching would be reading the sign and since it is located closer to the road than the required setbacks, they may not see the cars pulling out.
- The Chair stated the sign is already there, and if the variance is denied, the sign in its exact structure with different words will still be there.
- Mr. Scholz stated he agrees but changing it from a directional sign to a free standing sign makes it busier, which is the point of the ordinance.
- Ms. Champagne stated she understands his point but thinks that people exiting the business have to pull out far enough to see regardless of the sign and that will allow the car that is approaching to see them.
- Mr. Tierney stated the car that is approaching will be slowing down to look at the sign leading the car that is pulling out to believe they can pull out. There is a bend in the road where the driveway is located and that adds to the problem.
- Ms. Champagne stated the copy that they are proposing exists on the sign now and has been there for 8 to 10 months. She stated it is not possible to have a sign plan that guarantees peoples driving behavior.
- Mr. Tierney agreed but stated a variance is the last resort. They have to determine if there is a way it can be done without going through the process. He can see the uniqueness of the lot may require two signs but is struggling with the setback. In his opinion they should stay in compliance and consider having a more readable sign with the proper setback.
- Mr. Scholz stated his issue is you are approaching up an elevation with a curve to the right and the sign is so close to the road. He gets the idea of it being in the public interest to have two signs for this parcel but he does not agree with the setbacks for public safety reasons.
- Mr. Samsel asked Ms. Prendergast to explain the process for receiving a temporary sign permit and Ms. Prendergast explained an application gets submitted and is typically reviewed and approved for 30 days. Usually to advertise an event or project. She also noted she does not recall signing off on a temporary sign for this property.
- The Chair asked where in the ordinance it stated a directional sign does not have to meet the setbacks and Mr. Samsel answered Section 706.7.2.
- Mr. Connors stated his concerns for safety going around the curve and believes if the sign is going to be larger it has to be moved back much further.
- The Chair asked if the sign as it currently sits creates sight line problems and Mr. Connors replied not for us but for people leaving it does.
- Mr. Tierney stated your asking for two different variances; one to allow a second free standing sign and the other for a setback of 3 ft where 10 ft is required. His concern is the variance goes with the property and they will not be bound to maintain the size of the existing sign, meaning down the line a larger sign could be placed there.

- Ms. Champagne stated there is nothing she can do about what somebody might do in the future.

The Chair closed the public portion at 8:25pm.

Mr. Samsel motioned to go into Deliberative Session, seconded by Mr. Scholz. Motion passed: 5-0.

- Mr. Samsel stated he has no issue and believes it meets the five criteria, specifically the lot is very unique and its size requires two signs. Considering the proportional aspect on the property and given the size of the frontage on Lamson Road it does require a larger sign. This is an industrial park and he is comfortable with two signs and defers to the Planning Board as to the location. He also stated they can regulate and put a condition on the size of the second sign and be specific as to which sign gets the three foot setback.
- Mr. Scholz stated there is a kindergarten and nursery school across the street and his concern is with safety, the elevation going up the driveway and the curve as you approach. His inclination is to not move forward with the setback. He believes there is a benefit for the tenant but he does not believe it meets the public interest for safety reasons.
- The Chair stated when he looks at the spirit of the ordinance and public interest the questions are is it going to change the central character of this locality, and he does not believe it will. There is a sign already there and they are only going to add some words and maybe colors. He does not believe it is going to threaten public health, safety, and welfare because a sign already exists in this location with no variance. If they don't allow it the same sign is going to exist with different letters on it. He believes two signs make sense at this location especially with the grade of the land, the size of the property, and the location of the driveway. He thinks it meets the five criteria.
- Mr. Scholz stated the ordinance only calls for another 7 feet and he has no problem with a second sign he just has a problem with the location.
- Mr. Samsel noted the percentage of first time visitors to the location will slide and eventually people will get it.
- Mr. Hughes made an observation that the traffic volume is lighter and speeds lower in this area than on a major thoroughfare and he believes the sight line issues will be minimal.

Mr. Scholz motioned for Case #4-2014, Lot 13-A-196, to grant relief from Section 706.4.2.1 to allow two free standing signs identifying a commercial complex where only one is allowed, seconded by Mr. Hughes. Motion passed: 5-0.

The Chair advised of the 30 day appeal period.

Mr. Samsel motioned for Case #4-2014, Lot 13-A-196, to grant relief from Section 706.8 to allow a front setback of 3 feet for a free-standing sign where 10 feet is required in reference to the directional sign on the Signage Plan presented and dated 9/22/10, where the dimensions of the sign shall not exceed the size as presented as Item #5 and the existing height which will be confirmed and added to the record by the Code Enforcement Officer, seconded by Mr. Hughes. The Chair took a roll call vote: Mr. Hughes – yes; Mr. Samsel – yes; Mr. Scholz – no; Mr. Tierney – no; The Chair – yes. Motion passed: 3-2 with Mr. Scholz in opposition citing public interest and spirit and intent for public safety issues and Mr. Tierney in opposition citing public interest and spirit and intent for public safety issues.

The Chair advised of the 30 day appeal period.

The Chair sat Mr. Mazalewski for Mr. Samsel for the review of the 2/11/14 minutes.

Review and Approval of Draft Meeting Minutes – 02/11/14

Mr. Tierney made a motion to approve the February 11, 2014 draft minutes, seconded by Mr. Scholz. Motion passed: 5-0.

The Chair informed the Board there was an issue with the approved minutes from January 14, 2014. Circuit Court was changed to Superior Court in error and they should be changed back to read Circuit Court.

Mr. Scholz made a motion to reconsider the January 14, 2014 minutes, seconded by Mr. Tierney. Motion passed: 4-0-1 with Mr. Samsel abstaining.

Mr. Tierney made a motion to accept as amended, with the change from Superior Court to Circuit Court, the January 14, 2014 minutes, seconded by Mr. Scholz. Motion passed: 5-0.

Mr. Scholz motioned to adjourn the February 25, 2014 Zoning Board of Adjustment Meeting at 8:50pm, seconded by Mr. Tierney. Motion passed: 5-0.

DRAFT