



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MERRIMACK ZONING BOARD OF ADJUSTMENT

APPROVED MINUTES

WEDNESDAY, APRIL 23, 2014

Members present: Fran L'Heureux, Patrick Dwyer, Phil Straight, Tony Pellegrino and Alternates Leonard Worster, Nathan Barry, and Richard Conescu.

Staff present: Assistant Planner Donna Pohli and Recording Secretary Zina Jordan.

1. Call to Order

Fran L'Heureux called the meeting to order at 7:00 p.m. and designated Richard Conescu to sit for the vacant full member position.

2. Roll Call

Richard Conescu led the pledge of allegiance. Tony Pellegrino read the preamble and swore in members of the public who would be testifying.

3. Christopher Ross, LLC. (petitioner/owner) – Variance under Section 17.10.3(b) of the Zoning Ordinance to allow a commercial ground sign to be relocated 15 feet from the public right-of-way whereas 20 feet is required. The parcel is located at 401 D.W. Highway within the C-1 (Limited Commercial) and Aquifer Conservation Districts. Tax Map 4D-3, Lot 083. Case # 2014-14.

Christopher Ross, 401 D.W. Highway, said the following the regulations would put the sign so far back that no one would see it until they were at the property's edge. The new sign will be installed further from the right-of-way than the current construction sign, which will be removed. It will be visible to northbound traffic on D.W. Highway. The requested variance is 5' closer to the right-of-way than the required setback.

Christopher Ross read the points of law into the record.

Fran L'Heureux asked about the discrepancy in Synergy's address, which Chris Ross confirmed the sign is advertising the business at 403 on the 401 D.W. Highway property.

Leonard Worster said the sign is in keeping with the one next door. He suggested that the blue sandwich board on the lawn be removed because it deters the visual affect on the sidewalk. Christopher Ross will discuss it with Merrimack Vision Care. He said there would be more visibility beneath his new sign than beneath the current one.

Phils Straight said this is the only location possible because the building blocks the normal setback.

There was no public comment.

The Board voted 5-0-0 to grant the variance, on a motion made by Patrick Dwyer and seconded by Tony Pellegrino.

Findings of Fact

1. The granting of the variance would not be contrary to the public interest because the subject property is in a C-1 Commercial zone and the proposed sign location does not obstruct the view of any residential or commercial abutters;
2. The spirit of the ordinance is observed because the Ordinance encourages signs to comply with the associated building setbacks in order that the building and sign setbacks create a uniform appearance. The existing building is grand-fathered and encroaches into the current zoning setbacks;
3. Granting this variance would do substantial justice because the abutting properties to the north and south currently have signs that encroach into the zoning setbacks. The location of the existing signs will obstruct the view of the petitioner's sign if it is installed according to current zoning requirements;
4. The values of the surrounding properties would not be diminished because the signs of the abutting properties encroach further into the zoning setback than the proposed sign. Recent site improvements have increased the visual appeal of the property. A professional sign contractor will construct and install the sign;
5. A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:
 - 1) No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the historic nature of 401 D.W. Highway and its location within the current zoning setbacks renders installation of signs to current regulations essentially not feasible.
 - 2) The proposed use is a reasonable one because adequate signage is imperative to the success of an on-going business. Allowing the setback to conform to that of the signs of the abutting properties will provide an equal opportunity for success.

4. Discussion/possible action regarding other items of concern

Donna Pohli announced that if any of the alternates were interested in the vacant full member position now that Kevin Shea has resigned, they would need to send a letter of interest to Becky Thompson.

Donna Pohli reported that the Community Development Department has hired Jillian Harris as the new Planning and Zoning Administrator. Jillian has spent the past 5+ years with Southern NH Planning Commission in Manchester and recently passed the American Institute of Certified Planners (AICP) exam. Community Development Director Tim Thompson will introduce Jillian at the May 28, 2014, ZBA meeting.

Phil Straight suggested that, when an agenda is full or complicated, the applicants read only the points of law. They can explain their petition and answer questions later if

necessary. Patrick Dwyer suggested that petitioners present only the facts of the case with no history. Richard Conescu suggested that there be no comparisons with what ZBAs do in other towns. The ZBA agreed with these suggestions.

5. Approval of Minutes – March 26, 2014

The minutes of March 26, 2014, were approved, with changes, by a vote of 5-0-0, on a motion made by Tony Pellegrino and seconded by Nathan Barry.

6. Adjourn

The meeting adjourned at 7:28 p.m., by a vote of 5-0-0, on a motion made by Richard Conescu and seconded by Phil Straight.