MINUTES
ZONING BOARD OF ADJUSTMENT
TOWN OF PETERBOROUGH
Monday, May 6, 2013 – 7:00 pm
1 Grove Street, Peterborough, New Hampshire

Board Present: Jim Stewart, Sharon Monahan, Bob Lambert, Loretta Laurenitis, David Sobe and Peter Leishman

Staff Present: Laura Norton, Office of Community Development and Dario Carrara, Code Enforcement Officer.

Chair Stewart called the meeting to order at 7:00 p.m. He began with "good evening everyone, I would like to call the meeting to order. This is the regularly scheduled May meeting of the ZBA, I am Jim Stewart and I am the Chairman." Chair Stewart introduced the members and staff.

Chair Stewart reviewed the process of reading the application followed by a presentation by the applicant; questions from the Board; questions/concerns from the audience (in favor then opposed) and closure of the hearing followed by deliberation and decision. He noted if a decision was not reached this evening the case would be continued to a date and time certain. He concluded by noting that everyone interested would have an opportunity to speak and to please be sure to state their name and affiliation (abutter, agent, concerned citizen) for the record.

Chair Stewart then read the applicant's request for a Variance. "Case No. 1192 Juniper Peterborough LLC is requesting a Variance as regulated by Article IV, Section 245-18 of the zoning ordinance, to combine two legally conforming signs into one legally non-conforming sign. The property is located at #9 Vose Farm Road, Parcel No. R008-024-000 in the Business/Industrial District."

Chair Stewart looked up and asked "are there any corrections, additions or changes to this notice?" Peter Brown (the applicant) replied he felt the notice was a bit misleading as the current sign was non-conforming at 46 square feet. Code Officer Dario Carrara replied "the current signs are not the question before us in that the current signs will be removed."

Chair Stewart also noted he had received a letter from the Peterborough Chamber of Commerce supporting the Variance request. He then asked the applicant to proceed with their presentation. Peter Brown introduced himself as the owner of the property as well as Reed Hayes, Principal of Archetype Signworks, a tenant in the Business Center and the company chosen to create the new sign.

Mr. Brown began by noting the location and sizes of the current signs (the original Brookstone sign) at #9 Vose Farm Road which is 46 square feet in size and the smaller sign across the street for #49 Vose Farm Road measuring 11.5 square feet. Mr. Brown noted it was his understanding that he was entitled by zoning regulations to take down the old sign for #49 Vose Farm Road and erect a 40 square foot sign "giving me a total of 86 square feet of signage" he said adding "but I would prefer to take them both down, they are not aesthetically pleasing and do not have enough

space for all the tenant names." He went on to note "I would like to propose replacing both signs with one sign measuring 79 square feet." "Both the buildings on one sign?" asked Chair Stewart with Mr. Brown replying "yes, both buildings on one sign, it will be safer and easier for people to see." He then described the sign to the members. He had several graphics and he pointed out the fieldstone over concrete footing. Chair Stewart asked "are they currently lit?" Mr. Brown replied "the one at #9 Vose Farm is." "Will this one be lit?" asked Chair Stewart. "Yes" replied Mr. Brown. "How?" asked Chair Stewart with Mr. Brown replying "internally, just like the one now." Reed Hayes introduced himself as a tenant but also the manager/principal of the sign company chosen to do the job. Mr. Hayes reviewed the graphics pointing out backlit acrylic push-through copy and as a rule lies on the top portion of the sign with the white polycarbonate face painted metallic silver slots for the tenant panels. He noted "the acrylic creates a halo lighting."

Mr. Lambert asked about another (third) sign on the property with Mr. Brown replying "yes, that is sign from the real estate broker." Chair Stewart asked "is it temporary?" Mr. Brown replied "yes." Mr. Carrara interjected that real estate signs were basically exempt from the regulations. Mr. Brown concluded by noting "that is the basis of our request and we ask you for your support."

Chair Stewart suggested the members go through the variance criteria. Mr. Hayes read through each criteria with an explanation of how the request would not be contrary to the public interest, how the spirit of the ordinance would be observed, how substantial justice would be served, and why surrounding property values would not be diminished. He reviewed how the enforcement of the provisions of the ordinance would result (and had resulted in their opinion) in an unnecessary hardship and why the proposed request for *one* sign was reasonable.

Chair Stewart noted "so this one sign will replace the two current signs and will represent both #9 and #49 Vose Farm Road." Mr. Hayes reviewed the potential for two 40 square foot signs according to the zoning regulations and mentioned the easement that had been granted for a sign for the building at #49 Vose Farm Road.

Chair Stewart noted a request in 2008 had been denied and asked Mr. Brown to give the Board a brief review of the evolution of the buildings since that time. He asked "how many tenants do you have now?" adding "that information would be helpful, particularly to the hardship criteria."

Mr. Brown replied "correct, several years ago when we made our first request we had three or four tenants in the Brookstone building and two or three in the NEBS building. Originally we had six slots on the sign." Mr. Brown went on to give the current occupancy of the buildings concluding "we have a few spaces available but we have filled it up." Mr. Brown told the members one of the first questions he gets from a potential tenant is "will I have a sign on (Route) 202?" He noted the roof of #9 Vose Farm Road could be seen from the highway and #49 Vose Farm Road could not be seen at all. "It is very detrimental to getting tenants interested without signage" he said. Chair Stewart asked "is it possible you have lost leases because of no sign?" Mr. Brown replied "it has been a hardship" adding "right now I have to pick and choose who goes on the sign."

Mr. Brown went on to note he had a potential tenant to lease an 8000 square foot space who kept asking "am I going to be on the sign?" Mr. Brown looked at the members and said "as long as I get my Variance you will." Mr. Brown also touched on the public safety aspect of a new sign where drivers (including delivery personnel or first time customers) would not be as apt to miss the sign and do a U-Turn on the Highway to get back. Mr. Brown concluded "whoever it is, it is a real hardship if we cannot get tenant names on the sign." Mr. Hayes noted the last request was for 117 square feet of signage "and tonight our request is under the 80 square foot mark."

Ms. Monahan noted she thought the hardships should be read for the record. She specifically wanted some clarification of "what is different about your property than others in the area." Chair Stewart asked "is it true you cannot see the buildings from the road?" with Mr. Brown replying "that is 100% correct." Ms. Laurenitis asked for clarification on the green area that borders the highway and asked "is it part of the deed?" Mr. Brown replied "yes, it is. It is a restrictive covenant placed by Peterborough Industrial Corporation, way back when."

Ms. Monahan asked about the request being for two buildings. Mr. Brown relied "we have 17-18 tenants in the two buildings." He also noted the sign would be moved 10 feet north.

"Any other questions?" asked Chair Stewart with Mr. Leishman interjecting "I am pleased with the reduction in the height of the sign." Chair Stewart asked "are you keeping it the Brookstone Business Center? Why not change it to Juniper? Mr. Hayes replied they were very pleased with people's knowledge of where "Brookstone" is located.

Ms. Laurenitis (stated) "just to be clear" and (asked) you own both #9 and #49 Vose Farm Road?" Mr. Brown relied "yes, one business with two entities." Ms. Laurenitis replied "two separate entities" with Mr. Brown confirming "yes, with the easement." In reference to the 11-foot sign (reduced in height from their original request of 12 feet) Chair Stewart asked "how did that come about?" Mr. Brown replied the sign was the old NEBS sign "it had the NEBS Logo on it when we bought the lot, and we re-faced it." Chair Stewart asked "and if we grant this there will be **no** second sign there in the future?" "Yes" replied Mr. Brown.

With no other questions from the Board Chair Stewart opened the hearing to the public. ZBA Alternate (not appointed for this case) Bob Lambert was in the audience and noted "my only comment is that the two buildings as they are can have 86 square feet of signage and they are requesting just *under* 80 square feet here. Ms. Laurenitis interjected "it is hard to conceptualize an 80 square foot sign" with Chair Stewart pointing out that the sign was basically being lowered and put on a base. He noted "it will be a little wider to accommodate all the names of the tenants." Mr. Sobe asked if 21 tenant spaces would make the sign too bright with Mr. Hayes replying "oh no, they are translucent and act as a diffuser, really it is a soft glow."

Andy Peterson introduced himself and touched on several positive aspects of the Business Center. "They do a great job" he said adding "taxes are being paid on an industrial property that is important to our town and community." Mr. Peterson pointed out the Ocean State Job Lot sign in the Peterborough Plaza is 105 square feet and noted "I believe this is appropriate and serves not only the owners of the buildings but the tenant in those buildings as well. Overall they do a great job." He noted the sign was not blinding or detrimental to drivers and concluded "please consider this request and its importance to the town."

A motion was made/seconded (Stewart/Leishman) to move to deliberation with all in favor. The Public Hearing closed at 8:34 p.m.

Deliberation

Chair Stewart read a statement regarding the deliberative session that defined the hearing as closed with no additional testimony from the applicant or the public being heard. “But the Board may request additional information at its discretion” he said.

Chair Stewart began deliberation with a straw poll. “I will go first” he said and proceeded to say “I am for it; I think it meets all the criteria.” He briefly reviewed the criteria including the spirit of the law, the public interest and the uniqueness of the property. He added “and they are combining two signs and we can condition that that one sign is the one and only sign for both buildings.” He concluded “it more than meets the requirements.”

He turned to Ms. Monahan and asked “Sharon? Ms. Vice Chair?” Ms. Monahan replied “yes, I agree.” Chair Stewart looked to Mr. Sobe “David?” he said. Mr. Sobe replied “I am in favor of it” adding “I think reading 21 names at 40 miles per hours may be difficult but I think it could be attractive if it is not too bright.” Chair Stewart then asked Ms. Laurenitis who replied “I am in favor, they do have special conditions.” Mr. Leishman was also in favor. Ms. Monahan noted the multiple letters of support from the tenants of the two buildings as well as the Chamber of Commerce. She noted they should be mentioned for the record.

Mr. Carrara replied “let’s not get too complicated” explaining “the notice does not apply to the existing signs; it applies to the signs they *could have* had.” He noted “I may not have worded it clearly but their proposal was to remove the current signs.”

Mr. Carrara reviewed the regulation that would allow a 40 square foot sign for each business (#9 and #49 Vose Farm Road) where the applicant was proposing a combined sign for both buildings that would be less than 80 square feet. Chair Stewart asked Mr. Carrara if he had any additional comments with Mr. Carrara replying he was just going to bring up covenant in the deed for #9 Vose Farm Road that restricted commercial activity on the green space along Route 202 “but that was supplied by the applicant” he said.

Ms. Monahan suggested the members begin by taking applicable quotes from the ordinance. She read from the ordinance several times as the members drafted the decision.

A motion was made/seconded (Stewart/Leishman) to grant the Variance with conditions noted with **all in favor**.

ZONING BOARD OF ADJUSTMENT

NOTICE OF DECISION

Case Number 1192 May 6, 2013

You are hereby notified that the request of Juniper Peterborough LLC, for a **Variance** to Article IV, Section 245-18 of the Zoning Ordinance, to combine two legally conforming signs into one legally non-conforming sign, on property located at 9 Vose Farm Road, parcel number R008-024-000, in the Business/Industrial District, is hereby **GRANTED**.

In reaching the variance decision, the Board finds that:

1. The variance will not be contrary to the public interest because:
   The proposed sign will protect and improve the community appearance and aesthetics as well as promote the vitality of local business tenants in the buildings.

2. The spirit of the ordinance is observed because:
   The applicant has the right to have two 40 square foot signs. The proposed sign is less than 80 square feet.

3. Substantial justice is done because:
   The sign will provide more information about the businesses in the buildings and more direction to the public.

4. The values of surrounding properties are not diminished because:
   Surrounding properties are commercial in nature and this sign is more conforming and aesthetically pleasing than neighboring signs.

5. Unnecessary hardship
   Special conditions of the property include:
   - Building entrances are setback and cannot be seen from the highway.
   - Neither building is visible from Route 202 making it difficult to identify tenant businesses.
   - Covenants in the deed limit placement of any commercial activity along Route 202.
   - The two buildings are significantly large and house twenty plus tenants.

   a. Owing to the special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in an unnecessary hardship because:
      i. There is not a fair and substantial relationship between the general purposes of the zoning ordinance and the specific application of that provision on the property because:
         The applicant is giving up two signs for one sign of less total square footage.

      ii. The proposed use is a reasonable one because:

Adequate signage is necessary for the economic vitality of these commercial properties.

In granting this variance, the Board imposes the following conditions:

1. The two existing signs will be removed.
2. This proposed sign fulfills the right to have a freestanding sign for 9 Vose Farm Road and an off-premises sign for 49 Vose Farm Road.
3. The sign must be in substantial compliance with the application and graphics submitted.

Signed,

James Stewart, Chair

Note: An application for rehearing on any question of the above determination may be taken within 30 days of said determination by any party to the action or person directly affected thereby according to the provisions of New Hampshire Revised Statutes Annotated, Chapter 677. Decisions for Variances and Special Exceptions shall become null and void in two years if substantial compliance with said decision or substantial completion of the improvements allowed by said decision has not been undertaken after the date of approval. If this decision becomes null and void, the owner must reapply to the Board of Adjustment for a Variance or Special Exception as provided for in §245-42 of the Peterborough Zoning Ordinance.

Rules of Procedure

Chair Stewart briefly reviewed the proposed changes. The members spent some time discussing the possibility of a tie vote (on an even number Board) and the option for the applicant to continue the case to a time certain with a full Board. It was noted that if the applicant chose to be heard with a limited Board and a tie vote occurred "a tie does not mean a denial." Chair Stewart noted "technically it does not pass but it does not fail either." Chair Stewart then recommended the members just change ROP #5 (the designation of an alternate by the Chairman to be executed *before* moving into deliberative session versus at the start of the public hearing). A brief discussion occurred about a larger case going two, three or four meetings possibly having several different members. Chair Stewart once again noted the importance of every member (full or alternate) being present for every meeting. With the motion on the table the members all voted in the affirmative to change ROP #5.

Minutes

A motion was made/seconded (Stewart/Monahan) to approve the Minutes of April 1, 2013, April 9, 2015, April 15, 2013 and April 16, 2013 as written with typos corrected with all in favor (Mr. Leishman abstained as he was not present at those meetings).

The hearing adjourned at 9:30 p.m.

Respectfully submitted,

Laura Norton
Administrative Assistant