

**LONDONDERRY ZONING BOARD OF ADJUSTMENT  
268B MAMMOTH ROAD  
LONDONDERRY, NH 03053**

**MINUTES FROM 11/18/20 MEETING**

The meeting was called to order at 7:00 p.m. Members introduced themselves. The following members were present: Jacqueline Benard, Vice Chair; Brendan O'Brien, member; Suzanne Brunelle, member; Mitch Feig, alternate member and Irene Macarelli. Also, participating was Laura Gandia, Associate Planner; Brad Anderson, Code Enforcement Officer; and Beth Morrison, Recording Secretary. Vice Chair Benard appointed M. Feig and I. Macarelli as voting members this evening.

**I. APPROVAL OF MINUTES**

**M. Feig made a motion to accept the October 21, 2020, minutes as amended.**

**The motion was seconded by S. Brunelle.**

**The motion was granted by, 5-0-0.**

**II. REPORT BY TOWN COUNCIL – D. Paul informed the Board that they are doing studies now in the north end of town regarding traffic.**

**III. REGIONAL IMPACT DETERMINATIONS: Associate Planner Gandia informed the Board that she had no projects for their consideration this evening.**

**IV. PUBLIC HEARING OF CASES**

**A. CASE NO. 10/21/2020-1: Request for three variances from LZO: (1) 7.5.C.1 to allow a sign 20 feet in height where only 10 are allowed; 7.6.D.3.a to allow a 120 SF free standing sign where only 65 SF are allowed; and 7.6.D.3.a.i to allow a free standing sign to be located five feet from the property line where 15 feet are required, 18 Orchard View Drive, Map 7 Lot 40-12, Zoned C-I, STG Realty Associates, LLC (Owner & Applicant) – continued from the October 21, 2020 meeting**

S. Brunelle read the case into the record noting it was continued from the last meeting. She reviewed the six previous zoning cases as well. B. O'Brien recused himself from this case. John Cronin, Esq., from Cronin Bisson & Zalinsky Attorneys at Law, 722 Chestnut St, Manchester, NH, addressed the Board. J. Cronin informed the Board this was continued because there are three issues: the size of the sign, the height of the sign and the proximity of the sign to the front road. He noted that one of the abutting neighbors, Mr. Benson, sent in an email expressing both support and concern. He explained Mr. Benson's concern was the sign's proximity to the road, moving it from the 15-foot setback to five feet, which might affect sight distance. He added that he met with another abutter to the rear of the building whom expressed concern regarding outside lights, which is not related to the sign, but wanted the Board to be aware. He said that in the back of the building there are no cut-offs, which allow spill over, so they have ordered cut-offs that will be installed on Friday. He went on noting that they contacted the owner of the

cinema regarding tree growth in the area of the sign and let him know that perhaps some trees would need to be cut. He read a letter (Exhibit A) into the record, which was in favor of granting the variance. He stated that they consulted TF Moran Inc., and asked them to evaluate the sight distance issues with respect to the sign being moved to five feet from the road. He noted that Robert Duval, P.E. took a look at the plan and he read a letter (Exhibit B) from Mr. Duval into the record. He pointed out that the letter states that sight distance will not be affected.

He then reviewed the five criteria for the granting of the variance:

- (1) The granting of the variance is not contrary to the public interest: because it does not change the essential character of the neighborhood nor threaten the health, safety or welfare of the general community.
- (2) The spirit of the ordinance is observed: because it will not change the essential character of the neighborhood.
- (3) Substantial justice is done: because the loss to the applicant would outweigh any gain to the public.
- (4) Values of surrounding properties are not diminished: because it will not have any adverse effect on any neighboring properties.
- (5) There is 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 property is remote making its frontage and visibility unique and different from the majority of the other businesses in the area. He said that the proposed use is a reasonable one.

Vice Chair Benard asked for questions from the Board. M. Feig asked if Mr. Benson was still unsure about the proximity of the sign to the property line. J. Cronin replied that it still has not been resolved, but noted that he stayed out of the discussion as he represents both clients. M. Feig asked why the sign needs to be moved closer. J. Cronin responded that the current location is set back and does not provide the motoring public the opportunity to identify it properly. J. Benard asked when that sign was originally constructed. J. Cronin replied that he did not know. S. Brunelle noted that it is unclear from the record. She asked about the lighting that was brought up in the beginning and if that had any impact on the sign. J. Cronin answered that it did not. S. Brunelle asked what the sign would be made of. J. Cronin responded that he could not. S. Brunelle asked what the new sign would be made of. J. Cronin replied that he could not answer that question this evening as he did not know. S. Brunelle expressed her concern that it appears the sign is made out of stone and concrete, and if someone goes off the road and hits the sign, it would be a problem, especially since it will be closer to the road. She added that people walk on that road as well and moving the sign closer to the road is a safety issue. J. Cronin explained that when TF Moran, Inc. does the measurements, the road or the right-of-way, is not just the paved surface and includes the shoulder, so five feet from the property line does not mean five feet from the pavement. S. Brunelle stated that the sign would be 10-feet closer to the road. J. Cronin responded that is correct and said that a compromise might be moving it up 10-feet instead of five feet. J. Benard pointed out that there is nothing in the packet related to what the new proposed sign would be made of, as well as no renderings. J. Cronin explained that it was his fault, as he thought the discussion would be related to the size, height and location rather than composition. He stated that the sign would comply with all the building code requirements. He went on to add that if the Board would like the exact specifications of

the new proposed sign, he would be agreeable to a continuance. J. Benard stated that she would feel more comfortable if she had renderings, as safety is a big concern. M. Feig asked if the Town had done a sight distance profile. B. Anderson replied that he recommends a certified sight distance profile performed by an engineer, at least as a condition of approval, before the issuance of a building permit. J. Cronin said that is a reasonable request and thought that Mr. Duval would have no objection to certifying his letter. He said that if there sign material that is preferred by the Town, the applicant would work with the Town to meet the requirements. He asked if he withdrew the third variance request, for the location of the sign, would that be something the Board would be agreeable to. M. Feig asked if the height would affect the sight distance. B. Anderson replied that he did not think there would need to a certification in terms of the height or size of the sign. J. Cronin said that he would withdraw the third variance request and if the applicant wanted to address this, he could come back at a later date.

Vice Chair Benard asked for public input.

Deb Paul, 118 Hardy Road, addressed the Board in opposition to the variance. D. Paul said that she is concerned about the light and/or brightness of the sign. She said that she does not think anyone would be able to see the new proposed sign in versus the old one. She voiced her concern that she does not want to set a precedent on bigger signs. She is opposed to moving the sign closer to the road as well. J. Cronin said that the lighting will meet the current code and will not be any different. J. Benard asked if there was a light ordinance in relation to brightness. L. Gandia informed the Board that spill over onto adjacent properties (footcandles) is regulated. B. Anderson added that the light covers need to shine down and not at an angle.

S. Brunelle read a letter of opposition, (Exhibit C) into the record.

Vice Chair Benard brought the discussion back to the Board. S. Brunelle said that she does not have any objection to allowing the sign to be larger. M. Feig said that he did not object to a larger sign, but usually likes to see renderings of the sign. I. Macarelli said that she also would like to see a rendering. Vice Chair asked if the applicant would be willing to have the case continued and come back with all the information, so the Board can make an informed decision. J. Cronin replied that would be agreeable. He asked if the Board is looking for sign materials, composition and lighting. Vice Chair responded that was correct. J. Cronin stated that he did not wish to withdraw the third request anymore as they would be continuing the case.

**S. Brunelle made a motion to continue CASE NO. 10/21/2020-1 request for three variances from LZO: (1) 7.5.C.1 to allow a sign 20 feet in height where only 10 are allowed; 7.6.D.3.a to allow a 120 SF free standing sign where only 65 SF are allowed; and 7.6.D.3.a.i to allow a free standing sign to be located five feet from the property line where 15 feet are required, 18 Orchard View Drive, Map 7 Lot 40-12, Zoned C-I, STG Realty Associates, LLC (Owner & Applicant) until December 16, 2020.**

**M. Feig seconded the motion.**

**The motion was granted, 4-0-0. The case was CONTINUED until December 16, 2020.**

**B. CASE NO. 10/21/2020-2: Request for a variance from LZO 7.6.D.3.b.i to allow a 164.8 SF wall sign where only 40 SF are allowed, Four Orchard View Drive, Map 7 Lot 40-2, Zoned C-1, NH Signs (Applicant) and Vernco Apple, LLC (Owner) – continued from the October 21, 2020 meeting**

M. Feig read the case into the record reading the previous zoning cases into the record. B. O'Brien and S. Brunelle recused themselves from this case. Vice Chair Benard informed the applicant that there are only three voting members this evening and let the applicant know that they can request a continuance until next month when the Board should have a full complement. Peter March, from NH signs, 66 Gold Ridge Avenue, Auburn, NH, addressed the Board. P. March told the Board that they are here tonight requesting a variance to allow a sign to be 164.8 SF where only 40 SF is allowed. He pointed out that the previous variance was denied on August 19, 2020 for a sign of 364.58 SF. He commented that they are applying for this variance based on the reduction of about 55% from the previous variance request. He commented that Appletree Mall can be entered from Route 102 or from Orchard View Drive. He said that the sign for Planet Fitness really caters to traffic entering from Orchard View Drive, where the storefront is the furthest away from traffic at 760 feet. He mentioned that Staples is the most similar to Planet Fitness with a floor area of 20,000 SF, 130 feet of frontage, sign size of 160 SF and 642 feet of sightline distance. He went on to note that Planet Fitness has a floor area of 25,000 SF, 137 feet of frontage, and about 760 feet from the furthest traffic entering the plaza. He noted that one of the Board's concerns last time was proportionality and reviewed a table they created illustrating the relationship between the linear length of the building and the size of the allowed sign:

Business Name	Sign Area SF to Frontage LF
Shaw's	0.34
Home Depot	0.48
Market Basket	0.83
TJ Maxx	0.85
Dollar Tree	1.08
Olympia	1.18
Staples	1.23
Game Changer Sports Bar	1.25
Xtreme Craze	3.75

He said that many towns in New Hampshire do not put an absolute number on the area for a sign and referenced Salem and Manchester's requirements with the Board. He mentioned that Londonderry applies an absolute area regardless of the building size and does not recognize the necessary relationship between storefront size to the sign size. He asked that they be treated in the same vicinity as Game Changer and Staples that have a sign area SF to frontage LF of 1.23 and 1.25 respectively, noting that Planet Fitness would be 1.20. He added that Planet Fitness strives to keep customers consistently engaged in long-term relationships and argued the sign plays an important role in defining the initial experience by creating an image.

He then reviewed the five criteria for the granting of the variance:

- (1) The granting of the variance is not contrary to the public interest: because it does not change the essential character of the neighborhood nor threaten the health, safety or welfare of the general community.
- (2) The spirit of the ordinance is observed: because it will not change the essential character of the neighborhood by having a larger sign, as sign visibility is key for a business.
- (3) Substantial justice is done: because the loss to the applicant would outweigh any gain to the public.
- (4) Values of surrounding properties are not diminished: because it will not have any adverse effect on any neighboring property values.
- (5) There is 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 property is one of the largest properties in town with large linear frontage, it is in the corner and has poor visibility and is a subscription-based business that relies heavily on continual promotion. He said that the proposed use is a reasonable one.

Vice Chair Benard asked for questions from the Board. She asked for specs of what the sign would be made of. P. March replied that the sign letters are comprised of aluminum and are bent in the shape of letters that are attached to the hard back, the faces are plastic and the illumination is LED. He said these signs use very little power. J. Benard asked if it was the insignia and letters that are illuminated. P. March replied that was correct noting there was no halo. M. Feig asked if they had a temporary sign up there now. P. March said that was correct noting it is 40 SF.

Vice Chair Benard asked for public input.

Deb Paul, 118 Hardy Road, addressed the Board in favor of granting the variance.

Vice Chair Benard brought the discussion back to the Board.

The Board closed public input and began deliberation:

- (1) The variance would not be contrary to the public interest: because there is no threat to public health or safety or alter the essential character of the neighborhood.
- (2) The spirit of the ordinance would be observed: because the essential character of the neighborhood is not altered.
- (3) Substantial justice would be done: because the loss to the applicant is greater following the guidelines of 40 SF and there is a greater gain to the public in being able to identify the storefront.
- (4) Values of the surrounding properties would not be diminished: because the essential character would not be changed.
- (5) There is not a fair and substantial relationship that exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: because the



property is in a commercial area in the corner and is hard to see approaching from the gas station, so visibility is an issue. The proposed use is a reasonable one.

**Member M. Feig made a motion in CASE NO. 10/21/2020-2 to grant the request a variance from LZO 7.6.D.3.b.i to allow a 164.8 SF wall sign where only 40 SF are allowed, Four Orchard View Drive, Map 7 Lot 40-2, Zoned C-1, NH Signs (Applicant) and Vernco Apple, LLC (Owner) with the following condition:**

**1. The materials of the sign and how it will be lighted as presented by NH Signs during the presentation.**

**I. Macarelli seconded the motion.**

**The motion was GRANTED, 3-0-0. The applicant's request for a variance was GRANTED with conditions.**

**C. Motion for Rehearing CASE NO. 09/16/2020-2: Request for a variance from LZO 7.7.E.3 for a changeable electronic message board sign which is otherwise prohibited, 11 Nashua Road, Map 10 Lot 51-1, Zoned C-II, Asaba Realty, LLC (Owner) and NH Signs (Applicant)**

B. O'Brien and S. Brunelle came back to the Board for this case. S. Brunelle read the case into the record and the previous zoning into the record. Peter March, from NH signs, 66 Gold Ridge Avenue, Auburn, NH, addressed the Board. P. March told the Board that they were here in front of the Board two months ago and the variance was granted, but restricted to the conditions of the 1991 variance. He read the conditions from the 1991 variance to the Board. He noted that the maximum size was 56 SF, lower sign was for pricing information only and the lower price sign was to be 25 SF in area. He explained that they were unaware of the conditions at the time and are here asking for a rehearing. He reviewed LED price changer signs with the Board, noting they cannot flash and can only display numbers. He said the owner of the store can change the prices remotely. He said that the current manual price signs are difficult and pose a safety issue in windy and icy conditions. He noted that the Board has granted these new LED signs to a number of gas stations in town recognizing the fact that they serve the site owner, public and employees of the gas stations.

He then reviewed the five criteria for the granting of the variance:

- (1) The granting of the variance is not contrary to the public interest: because it will not alter the essential character of the neighborhood, control visual clutter while being safer for employees.
- (2) The spirit of the ordinance is observed: because it will increase the safety for the employees, control visual clutter and not alter the essential character of the neighborhood.
- (3) Substantial justice is done: because the loss to the applicant would outweigh any gain to the general public.
- (4) Values of surrounding properties are not diminished: because the essential character of the neighborhood is not altered as it is in a commercial area with many businesses.

- (5) There is 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 sign is much farther off the road than the Shell or Sunoco sign and is hidden by the Auto Auction sign, the code makes no distinction between types of businesses – many towns adopt different standards for gas stations, as it has to post prices regularly, which makes it a unique business. The proposed use is a reasonable one.

Vice Chair Benard asked for questions from the Board. S. Brunelle asked for clarification on the justification for the rehearing reviewing the material. M. Feig replied that the Board approved it attaching the conditions from the previous 1991 variance without knowing what the conditions were. P. March added that they are back because of the two conditions that were from the previous 1991 variance. He explained that one condition restricted the size of the sign to 56 SF, but the current sign, which has been there for many years, is in fact 60 SF. He said that this condition would make the applicant reduce the sign of the current sign, which was permitted, noting that they are allowed 64 SF by code. He went on noting the second condition was the Board did not like red and green digits, but with subsequent research all the gas stations in town have red and green digits. J. Benard read a letter that B. Anderson wrote stating the sign is existing and conforming. M. Feig asked if there was an update to the size allowed by code. L. Gandia replied that they are allowed 65 SF now. S. Brunelle asked for the applicant to clarify on the red and green color for digits. P. March responded that all major gas stations now display regular gas in red and green for diesel. M. Feig mentioned that he believed that there was one gas station in town where they were not approved dual colors, but they have it anyways.

Vice Chair Benard asked for public input and there was none.

Vice Chair Benard brought the discussion back to the Board.

The Board closed public input and began deliberation:

- (1) The variance would not be contrary to the public interest: because there is no threat to public health, safety or welfare nor alter the essential character of the neighborhood.
- (2) The spirit of the ordinance would be observed: because the essential character of the neighborhood is not altered.
- (3) Substantial justice would be done: because the loss to the applicant is greater than any potential gain to the public.
- (4) Values of the surrounding properties would not be diminished: because the essential character would not be changed.
- (5) There is not a fair and substantial relationship that exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: because the property is unique as it is set far back off the road and the sign is not visible. The proposed use is a reasonable one.

S. Brunelle made a motion in CASE NO. 09/16/2020-2 to grant the request for a variance from LZO 7.7.E.3 for a changeable electronic message board sign which is otherwise prohibited, 11 Nashua Road, Map 10 Lot 51-1, Zoned C-II, Asaba Realty, LLC (Owner) and NH Signs (Applicant) with the following condition:

1. The colors are limited to red and green as they are industry standard.

B. O'Brien seconded the motion.

The motion was granted, 5-0-0. The applicant's request for a variance was GRANTED with conditions.

#### VI. Other Business

L. Gandia told the Board that Krys Kenney resigned. She welcomed new member, Irene Macarelli, to the Board and thanked her for volunteering. She said that she has reached out to B. Berardino regarding his status on the Board.

#### Adjournment:

B. O'Brien made a motion to adjourn at 8: 51 p.m.

M. Feig seconded the motion.

The motion was granted, 5-0-0. The meeting adjourned at 8:51 p.m.

RESPECTFULLY SUBMITTED,

  
CLERK

TYPED AND TRANSCRIBED BY Beth Morrison, Recording Secretary.

**APPROVED (X)** WITH A MOTION MADE BY Suzanne Brunelle, SECONDED BY Brunelle O'Brien 5-0-0



Ex. A

**O' Neil Cinemas**  
**Corporate Headquarters O'Neil Cinemas**  
**16 Orchard View Drive - PO Box 903**  
**Londonderry, NH 03053**

Ronald P. Tringale  
Workout Club/STG Realty Associates  
18 Orchard View Drive  
Londonderry, NH 03053

November 17, 2020

Dear Ron,

I have reviewed the renderings of your new proposed sign. It is very professionally done and visually appealing. I think that it will help to increase the value of both of our properties.

I fully support your going to the Town of Londonderry to gain approval for a variance to increase the size of your sign and move its location ten feet closer to the road as depicted in these renderings.

I am also supportive in your cutting down any trees on the front of my property to help improve visibility of your new sign. I recognize that many of these trees are partially or fully dead anyways. I would only ask that you care for all costs associated with the cutting and removal of these trees.

Sincerely yours,

Dan O'Neil  
Owner

Ex. B



Civil Engineers  
Structural Engineers  
Traffic Engineers  
Land Surveyors  
Landscape Architects  
Scientists

*Jeff -  
Sahany*

18 November 2020

John Cronin, Esq.  
Cronin, Bisson, & Zalinsky, PC  
722 Chestnut Street  
Manchester, NH 03104-3001

Re: Proposed Signage  
Workout Club – Londonderry, NH

Dear Mr. Cronin,

We have reviewed the proposed sign location for the new Workout Club sign to determine if there would be any interference with sight distance at the Club driveway.

The proposed sign would be set back 5' from the Orchard View ROW line. The Town regulation for sight distance refers to AASHTO guidelines. Those guidelines require that sight distance be measured from a point 14.5' away from the edge of the traveled way (i.e. the shoulder white line in this case).

The proposed sign would be located 5' from the ROW line, which is approximately 15' from the shoulder line; thus the sign would be located 20' behind the edge of the traveled way.

Since the point from where sight distance is measured (the driver's eye) is only 14.5' behind the shoulder line, that point will be 5.5' in front of the sign, and therefore the sign will not impede intersection sight distance measured per Town regulations.

The actual sight distance for vehicles exiting the Club driveway looking right is in excess of 400' and extends all the way to and beyond the Winding Pond Road intersection. This sight distance is more than adequate to be considered "all-season safe sight distance" for driveways. Sight distance looking left is unaffected by the sign placement.

Respectfully submitted,  
**TFMoran, Inc.**

Robert Duval, PE  
Chief Engineer

TFMoran, Inc. TFMoran, Inc. Seacoast Division  
48 Constitution Drive, Bedford, NH 03110  
T(603) 472-4488 www.tfmoran.com



Merce Way-Suite 102, Portsmouth, NH 03801  
-2222

**Laura Gandia**

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**From:** Scott Benson <sbenson@bensonslumber.com>  
**Sent:** Wednesday, October 21, 2020 11:25 AM  
**To:** Laura Gandia  
**Subject:** Workout Club sign proposal

Good morning Laura,

Unfortunately I will not be able to attend the meeting tonight but I wanted to let the town know of our concerns with the Workout's Club new sign proposal.

As abutters, if you allow only a 5' setback Benson Lumber & Hardware's sign will no longer be visible until you reach the workout club's sign if you are heading down Orchardview from the Shaw's plaza . Currently, our sign is visible from the Shaw's plaza. I also am concerned that it may be a safety hazard to vehicles turning onto Orchardview from the workout club because it could impede the line of sight.

As far as the height and size of the sign , we have no objections, I actually think the town needs to revisit the sign ordinance, 65 sq ft is very restrictive, but I do agree with the 15' setback.

Thank you for your time.

Respectfully , Scott Benson  
Benson Lumber & Hardware



