

**Town of Boscawen, NH
ZONING BOARD OF ADJUSTMENT
Boscawen Municipal Complex**

**MEETING MINUTES – Final
Tuesday, October 25, 2016 at 7:00 PM**

Members Present: Acting Chair Edward J. Cherian Jr., Douglas Supry, Ann Dominguez and Tracy Jo Bartlett.

Member Ex-Officio: Roger W. Sanborn.

Others present: Kellee Jo Easler, Planning & Development Community Assistant, Alan Hardy Planning & Community Development Director, and Rose Fife, Recording Secretary

Ann Dominguez is voting as Gail Devoid is absent.

Meeting opened at 7:05 pm.

Roll call by Secretary

Review & Acceptance of Draft Minutes: The Board noted a few changes in last month's Minutes.

Old Business

Application for a **Variance** from NH State Building Code Sections 903.2.1.2 and 903.2.8, to omit **sprinkler protection in the existing building located at 215 King Street**, submitted by **Pastoral Properties of New England** of 195 Knox Mountain Road, Sanbornton NH 03269 with the location of the property at **Map 81D, Lot 87, 215 King Street, in the COM zone.**

This case is continued to the November 22, 2016 meeting.

Continuation:

Application for **Variances** for relief of the following: **Article V, Lot Dimension & Area, 5.01 Table 2-Coverage Limits More Than Allowed; Article VII, Sign Regulations, 7.05-Sign Size In Excess Of Area Allowed & 7.08A-Second Sign In Excess Of Area Allowed; Article XXIV, Outdoor Lighting Ordinance, III, Outdoor Lighting Design B.-Sign Distance To Property Line & H.-No Internally Lit Signs**, submitted by **Lisciotti Development Corp** of 83 Orchard Hill Park Drive, Leominster MA 01453, owned by **Peach Pond Trust, Martha Crete Trustee, 100 River Road, Boscawen NH 03303** with the location of the property at **Map 81A, Lot 42, Boscawen NH, in the COM zone.**

Deliberations continued at 7:10 pm.

Article V section 5.01.2. Cherian asked Hardy if a conforming lot is 80,000 s.f. Hardy said yes. Hardy stated that whether the lot is conforming or not conforming is not the issue before the Board. Cherian noted that it was a nonconforming lot by a fair amount.

Hardy noted that the applicant wanted to address the Board at the beginning of the meeting.

Austin Turner and Andrew Comollo addressed the Board. Dollar General approached them with a smaller building size. The building is about 1600 s.f. smaller than what they proposed. Mr. Turner emailed Hardy a quick layout of the new building. Utilizing this smaller building reduces the impervious coverage and parking requirements and allows them to be more compact. The parking is still compliant with the town's requirement but the spaces are shorter in depth. This means that they no longer need an open space variance. Dollar General has asked to withdraw the Open Space variance. Cherian asked Hardy if he had worked with them for parking calculations. Cherian asked if the new proposal needs a variance. Hardy said that the parking calculations of 1 parking space per 200 feet for retail will come comes under the 40% requirement. Cherian asked if the standards spots are 9x18? Hardy wasn't sure. Mr. Turner said they would be creating 9x19 parking spaces. He is withdrawing the request for the impervious surface.

The variance request from coverage limits is withdrawn by the applicants.

Signs: Cherian noted that it was a single variance request to two different Ordinance Articles. He clarified what was asked for. (1.) Requesting 50.63 s.f. freestanding sign where 40 s.f. freestanding sign is allowed. (2.) Requesting the 50.63 s.f. freestanding sign to be internally lit vs. a downward lit freestanding sign. (3.) Requesting the second affixed sign to be 97.5 s.f. vs. 20 s.f. allowed. (4.) Requesting the 97.5 s.f. affixed sign to be internally lit. Cherian asked Mr. Turner if he wanted the Board to act on them separately or as one request. Mr. Turner felt stated that he would like to have them handled individually.

Hardy asked if they resolved the height of pedestal sign. Cherian noted that the highest point of the building is 19 feet tall and they are proposing a 20 foot high sign. The sign, at road level, will not project above the roof line. The sign will be measured by the natural base line. The sign will be compliant.

Request #1 requesting a 50.63 s.f. freestanding sign vs. 40 s.f. allowed: Supry asked what the rationale was for the increase in size. Mr. Turner said that this sign is the primary identifier and would allow vehicles to see them from a distance. If the sign is smaller it is harder to see from a distance. DOT has asked them to look at it from 400 feet away. Cherian asked what the difference in elevation from the location and base of the building is. Mr. Turner said 4 feet. Cherian asked what the set back is. Hardy said 20 feet from the edge of the right of way. Sanborn asked what the size of the right of way is. Mr. Turner said it was variable width. He said he would have the sign more than 10 feet back from the property line. Cherian asked if Dollar General had other size signs anywhere else. Mr. Turner said that there is no real standard. They have an internal element; they call it "branding". His company shares with the Dollar General Company what the ordinance requirements are. This is what Dollar General has asked for. Mr. Turner said some have been 150 s.f. and some are 40 s.f. Because of the setback and the vegetation they are asking for this size. Cherian is more concerned with the building sign than this one. Sanborn asked about illumination. Austin said it would be internally illuminated.

A motion to approve the 50.63 s.f. freestanding sign that conforms to setbacks and heights according to regulations was made by Sanborn, seconded by Supry and passed by a unanimous vote.

Request #2: Applicant is requesting the 50.63 s.f. freestanding sign noted in Request #1 to be internally lit vs. a downward lit freestanding sign. This request dealt with lumens. Supry asked if they would be internally lit with special bulbs. Mr. Turner said that was correct. Sanborn asked if they would be lit during the hours of operation. Mr. Turner stated that after hours they would only have security lighting; one light per side. Cherian asked Hardy about luminaires. Hardy stated that luminaires refers to fixtures. Cherian asked how they would know if an internally lit colored sign would meet the requirements. Hardy explained. Cherian asked if the alternative would be to have down ward lighting from a spot light. Hardy said yes and it would have to be aimed at the sign. Internally lit does not have that issue. Cherian is okay with this request as he feels it is less of an issue this way. There won't be as much glare when people drive by. Hardy said that the closest sign to compare this to would be the sign across the street at the funeral home which was not built according to the lighting ordinance but similar to what the ordinance requires. It is a reflective sign and the light goes up. Cherian asked what type of bulbs, what is the brightness. Mr. Turner he would imagine it would be the standard fluorescent bulb. Mr. Turner said that they can work with the vendor as there is flexibility as to what is used in the cabinet. They can incorporate a softer lighting element. Cherian asked the Board if they should make a note to the Planning Board to look at that. Hardy said that the Board certainly could. If they are offering to take it down to a softer light, that would be good. In the middle of the night, is one bulb going to be brighter than the other? Yes. Mr. Turner said his opinion is that it's not so much wattage but fixture type. He is willing to work with the Board. Hardy said the kelvin temperature is going to be one measurement. Mr. Turner said that the Board can make a recommendation to the Planning Board on what would be better lighting.

A **motion** was made by Bartlett to approve the request to allow this freestanding sign to be internally lit with a condition that the applicant provide to the Planning Board the vendor's specifications of the proposed lighting showing the lower kelvin temperature, seconded by Supry and passed by a unanimous vote.

Request #3: Requesting the second sign affixed to the front of the building, sign to be 97.5 s.f. vs. 20 s.f. allowed. This sign is also proposed to be internally lit which the Board will take up under a separate motion. Cherian asked why the sign needs to be this large as it is parallel to the road. Mr. Turner noted that it was the setback from the road as they were trying to accommodate the topography. Cherian doesn't follow that argument for an affixed sign parallel to the road. It made sense for the freestanding sign, but not on the side of the building. Sanborn said they have a larger pole sign. Cherian noted the National Lumber case signage. Hardy said they took the fascia of the building and used it as a back drop and put individual letters. Cherian said the Board did grant that sign but it wasn't a lit sign. Sanborn feels they should stay within the 20 s.f. Supry felt it was excessive signage. Cherian asked about the lighting. Mr. Turner said the sign would be above the store entrance facing the street. Bartlett asked about the length and width of the building. Mr. Turner said the building would be 85' x 85'. Bartlett asked for the sign length. Mr. Turner said the sign would be 26' long by 3'9" tall. Right now they are proposing to do a cabinet, but he has seen instances where they affix individual letters. That would make the sign less than 97.5 s.f. Bartlett asked if it would be a single line or two lines. Mr. Turner answered a single line. If the Board felt the size was not approvable perhaps they could do the lettering minus the cabinet. Sanborn noted that they still have to box the letters. Hardy asked why the pedestal sign they have two rows of lettering, but on the building sign it is different. Mr. Turner said that they do not have the depth to do a double stack lettering sign. Supry said he thinks he's seen a Dollar General store with the individual letters on it. Sanborn feels they should keep them at 20 s.f. Cherian said the ordinance is designed to

allow a primary sign and a secondary sign. Mr. Turner would like the Board to look at the size and lighting individually. Bartlett asked if there were security lighting over the sign. Mr. Turner said no.

A **motion** to deny the request was made by Sanborn, seconded by Bartlett. Motion was withdrawn by Sanborn. A **motion** to deny the 97.5 secondary signage and the request to have said sign internally lit was made by Sanborn, seconded by Bartlett and passed by a unanimous vote.

Exterior Lighting: Cherian noted that they reviewed exterior lighting. Article 24, III.b. Page 91 of the Ordinance. The calculation for lighting is complicated. The lighting plan was submitted to the Board. He doesn't see a specific request noted in a variance. Sanborn would like to see someone come in and explain it to the Board in layman terms. Cherian said that most of the lights, except for the one in the back of the building and the one in the front seem to require a variance. Hardy said would it help to say what they are proposing is a lighting package that, in their minds, does a better job of lighting the area than the ordinance allows. Mr. Turner said that was a fair statement. Shorter lights would not reach to light pedestrian paths and vehicular travel. Mr. Turner said that as the ordinance reads the maximum light is capped at 20 feet. The height of the fixture above grade must be 3' plus the distance divided by 3. They are asking to exceed the requirement but not the cap of what the ordinance requires. They are asking to go up to 20 feet but not greater than that. Cherian said this is tricky. If the property were 10 feet higher than the neighbors that would also be a concern. Mr. Turner said that in consideration of that point, what he can do would be move the lights interior of the site and they could be flipped to put the lights in the aisles in the parking lot. Cherian said that raises a point. Mr. Turner said that the new building size would require less poles. They are asking to be allowed to deviate from the equation but not the cap. Hardy asked if the Board could simply grant relief from the equation. Right now their lights are capped at 1800 lumens which is roughly equal to a 100 watt light bulb. Cherian is uncomfortable granting an open ended variance. Supry asked if it would be helpful to have an individual lighting engineer firm better explain what is proposed. Sanborn would like that information available to the Board. Mr. Turner stated that the actual lighting plan itself falls under the Planning Board and they need to operate within the confines of the ZBA approvals, etc. Is there a potential option where the Board can decide and put a tag on it so it can go on to site plan review? Hardy said the Planning Board will still take up the lighting. Cherian said even if they don't need a variance it would be reviewed by the Planning Board. Hardy said that was true because it would be part of the site plan packet. Supry asked if the Planning Board could decide on the deviation. Cherian said the heights are in the Minutes from last month for the pole lighting. They do not have fixtures and lumens. Mr. Turner said he believes he did submit fixture cut sheets. He asked if they changed fixtures or location would they need to come back to the Board. Hardy said modifying the plan that was submitted and approved by the Zoning Board may require they come back to the Board. If it was a relief from the equation then they could work with the Planning Board to come up with a lighting plan. Hardy noted that the lighting process through the Planning Board is just as detailed. Cherian would feel better if the decision was made based on the plan that was submitted and if it were to change they would need to come back to the Board. Hardy said if the Board approves the plan over the ordinance, that plan is what gets built as that is what the Board had approved. Hardy said one requirement is the ordinance requirements and then there is site plan regulations and the Planning Board can vary within the site plan regulations. Cherian said if they approved the lighting plan they could not change it. Hardy said that they could come up with a scenario where the Board would get involved again. Mr. Turner said that if the Board decides to vote on a specific plan and they decide they can't operate in that confine and they move the light poles internally and they don't require relief to do that do they need to operate in that box? Cherian said they don't have to. Hardy agrees. Sanborn asked if approved and it goes to the Planning

Board is the placement of the poles the Zoning Board's jurisdiction or the Planning Board's? Mr. Turner, said the submitted lighting plan was put together because the Board asked for something. This could and is likely to change based on what the Planning Board says. Cherian said in a case like this maybe the applicant should go to the Planning Board first and then see if they need a variance or not for lighting. Hardy said they have had a case where they did just that. Cherian said they shouldn't grant them a flexible variance. Sanborn said they do not have the information needed. Hardy said that regardless of whether they withdraw or deny, either case they could work out something that would comply. Cherian is concerned with the building size changing and therefore the parking lot and lighting would change. Mr. Turner said he likes that approach, going to the Planning Board first. The site plan will evolve under the Planning Board's review. The only wrinkle he sees is that if they come back and the Zoning Board doesn't agree, what they should do. Cherian noted that the Planning Board doesn't grant the variance. They can approve a site plan subject to Zoning Board approval. Cherian stated that they would come out of the Planning Board with much more detail than they have before the Board today. Mr. Turner asked that as they are going through the lighting plan with the Planning Board perhaps there is communication between the Planning Board and the Zoning Board. Hardy said that a joint meeting is a possibility and then the Board's deliberate separately. Mr. Turner is amenable to the idea of going to the Planning Board first and then coming back to the Zoning Board regarding the lighting issues. If the Board's amenable to it, is there a motion that gets made? Cherian suggests they withdraw the request as what you proposed will change. Hardy said that this appeal might not be what comes back before this Board, if it comes back. Mr. Turner feels that in that instance they should withdraw.

Mr. Turner requested to withdraw the request for a variances on exterior lighting. They will come back to the Board, provided they need to, after the Planning Board review. Mr. Cherian noted that this was a request being withdrawn was for a variance for outdoor lighting in terms of the lighting plan, setbacks, and heights.

A motion to adjourn the meeting at 8:39 pm was made by Sanborn, seconded by Supry, and passed by a unanimous vote.

Next Meeting: November 22, 2016 at 7pm.

*Respectfully submitted,
Rose Fife*