



OLD VALUES - NEW HORIZONS

COMMUNITY DEVELOPMENT

3 No. Lowell Road, Windham, New Hampshire 03087

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1
2 **Approved Minutes Zoning Board of Adjustment**
3 **July 26, 2016**
4 **7:30pm @ Community Development Department**
5
6

7 **Mark Samsel, Chairman** - present **Mike Mazalewski, Alternate** - excused
8 **Heath Partington, Vice Chair** - present **Kevin Hughes, Alternate** - present
9 **Pam Skinner, Secretary** - present **Jim Tierney, Alternate** - excused
10 **Mike Scholz, Member** - present **Jay Yennaco, Alternate** - excused
11 **Bruce Breton, Member** - present

12
13 **Staff:**

14 Dick Gregory, ZBA Code Enforcement Administrator
15 Andrea Cairns, Minute Taker
16

17 Meeting called to order at 7:31p.m. by Chairman Samsel.
18

19 Chairman Samsel reviewed the process for the public.
20

21 **Lot 11-A-520 & 530 Case # 23-2016**

22 **Applicant**-The Dubai Group

23 **Owner**-Village Center Properties, LLC

24 **Location**- 13 & 15 Indian Rock Road

25 **Zoning District**-Village Center District and Wetland & Watershed Protection District (WWPD).

26 Variance relief is requested from **Section 706.8** for two (2) free standing signs. Sign A on lot 11-A-
27 530 to be (10) ft. high and 39 sq. ft. in area and Sign B on lot 11-A-520 to be 12 ft. high and 60 sq.
28 ft. in area in the Village Center District, where the maximum height is 5 ft. and the maximum area
29 is 16 sq. ft. per lot.
30

31 Ms. Skinner read the case and abutters list into the record.
32

33 *Christopher McCarthy, 17 Nottingham Rd.*

34 Mr. McCarthy presented the case. He is a long-time resident and was on the village district
35 subcommittee helping craft the vision to create something they can be proud of.
36

37 Also present at this meeting was Luke Bouchard with Enterprise Bank – they will be the first tenant.
38

39 Mr. McCarthy noted the lots are 13 and 15 Indian Rock Road. The bank is on lot 15. They did a lot
40 of work with multiple committees and incorporated a lot of feedback. The final application will go
41 before the planning board on August 3rd. They were there to present an application for signage.
42 They met with the design review subcommittee who provided them feedback that they incorporated
43 into the final design. Mr. McCarthy provided an updated set of plans. The design review

44 subcommittee asked them to make changes to colors and fonts. They tried to create something that
45 is simple elegance. The problem they have in the village center is that the ordinance caps them at a
46 size similar to that of B&H, which is difficult to read. Snow mounds are often 4-5', which create
47 lack of visibility. Mr. McCarthy demonstrated the size of their sign in comparison to other signs in
48 the village center. He added they moved back the buildings further from Rt. 111 so the retail spaces
49 will have less visibility off Rt. 111. The existing Travis Building in front of the property serves as a
50 visibility blocker from where Enterprise Bank will go. They hope to get the sizes approved so they
51 can get the signs up.

52
53 Mr. Partington questioned if the sign size requirements changed at all during the village center
54 committee meetings. Mr. McCarthy noted the sign discussions were around signs for internal roads.
55 Mr. Breton noted they did discuss it which is why B&H is the size it is.

56
57 Chairman Samsel questioned what the design review subcommittee did. Mr. McCarthy explained it
58 was a subcommittee to the planning board that controls the town's regulations for architecture. They
59 look at landscaping, building materials, color schemes and overall look and feel of the sign. They
60 were very supportive.

61
62 Some of the changes they requested were adding a numerical number, as well as a written number.
63 They had a different font and changed some of the colors. They asked for borders around each
64 individual business sign. The letters will be 8" and the font was changed to something that was
65 more readable. The size of the sign is 49.3 sq. ft. for the larger sign and 32 sq. ft. on for the smaller
66 sign.

67
68 Mr. Scholz acknowledged he missed one of the meetings, but thought the lot was going to be
69 combined into one lot, but this plan talks about keeping the lot lines. Mr. McCarthy noted they
70 always intended on keeping the two separate, but there is one site plan. The project is being done on
71 two lots with easement access.

72
73 Karl Dubay noted the intent was always to keep the lots the way they were. There was no relief
74 requested relative to lot lines, the variance was for a total WWPD impact for the entire site. The
75 existing lot lines were to stay and nothing was to change. The village center district has flexible
76 zoning.

77
78 Mr. Scholz needed that clarification because they are requesting two signs.

79
80 Mr. Dubay explained they are allowed to have backplates, which make the signs even larger,
81 sometimes double what would be allowed. They are not using large backplates. The sign is
82 internally illuminated, but only the letters in the graphic and the corporate logo will be illuminated.
83 They want to make sure they have community buy-in on this design and have worked with many
84 committees to get to the point they are at.

85
86 Mr. Dubay noted that Luke Bouchard from Enterprise Bank has been very involved. They are
87 making a substantial commitment to the town. Their portion of the sign is only going to be 12"
88 high.

89
90 When they created the village center district, they did not have time to look at the signage ordinance
91 because it was too complicated. The Rt. 111 traffic vs. the rest of the district is very different.

92 Businesses like Dunkin Donuts have the benefit of canopies, which serve as additional signage.
93 Their building is much different.
94
95 Mr. Breton suggested they recommend to the planning board to change the way the sign ordinance
96 is, so they do not have non-conforming signs all the way down the street. Mr. Dubay noted they did
97 spend a significant amount of time on the sign ordinance when creating the district. The intent was
98 to have smaller signs, but the traffic on Rt. 111 has almost doubled and they did not contemplate the
99 unique characteristics of that particular lot.
100
101 Chairman Samsel asked for the frontage and distances between the signs. Mr. Dubay noted the side
102 setbacks are 50'. The distance between the two signs is roughly 260' in separation. The distance
103 between the pavement and the signs is at least 20' for the bank and the other sign is about 40'.
104
105 Mr. Dubay reviewed the five points.
106
107 Mr. Dubay noted they did request relief for the illumination of the letters. He did not see that on the
108 agenda and asked Mr. Gregory if that was on the notice to abutters.
109
110 Chairman Samsel questioned if they were held to the colors that were presented on this plan. Mr.
111 Dubay noted they were since it was part of the site plan approval process. The colors of the bank are
112 specific to the business, but the actual color of the sign is what they are putting on the site plan and
113 they would be in violation of the site plan if it changed.
114
115 Mr. Breton noted that Dunkin Donuts had the logo taken off their canopy and added that Mr. Dubay
116 mentioned that the size requirement is a hardship, but B&H has the same amount of traffic and the
117 size of their sign is smaller.
118
119 Mr. Scholz noted that relief from 706.4.3.3 is missing from the application but Mr. Dubay made
120 reference to it and questioned if the agenda and notice to the abutters included that. Mr. Gregory
121 noted it was not in the notice. Mr. Scholz noted any discussion on illumination would need to be
122 revisited so it could be properly noticed.
123
124 Mr. Breton suggested they continue the hearing and notify the abutters for both. Chairman Samsel
125 noted it was on the application. Would they have had more people if the illumination was
126 included? If someone had an interest in the sign, they would have been at the hearing. There is not
127 much difference in what they are asking for and it was on the application. He added in the past, their
128 attorney stated as long as the language on the agenda was close enough to the discussion, they could
129 continue. The agenda stated they were discussing signage; illumination could be included as part of
130 that.
131
132 Mr. Partington noted he remembered a hearing where there was a discrepancy in the lot number vs.
133 the address being noticed. He does not remember hearing a specific variance request that was not
134 noticed to abutters. He does not want to make the assumption that illumination is not important to
135 everyone.
136
137 Mr. Dubay noted they do not want to make a new application. He thinks it would be fair to renotify
138 abutters for what was not included. They would ask the board to go with a date specific continuance

139 of only the illumination with abutter notification. He does not want to have to reapply and wait for
140 everything all over again.

141
142 Mr. Breton would rather continue the hearing, based on the new plans, which were provided that
143 night, renotify abutters and start where they left off.

144
145 Chairman Samsel noted they heard testimony on 706.8. He is inclined to make a decision on 706.8
146 and have a separate hearing for 706.4.3.3. He does not want to repeat what they have gone through
147 over the last hour.

148
149 The board felt they should continue the hearing to the next meeting and make it the first hearing on
150 the agenda.

151
152 Chairman Samsel opened the hearing to the public.

153
154 *Angela Shea, 29 Oriole Rd.*

155 Ms. Shea questioned how many signs would be allowed for the abutters to the property. Is each lot
156 allowed to have a sign? The volume of signs seems high. Driving by trying to read each one is a
157 public safety concern. The sign they are proposing seems nice, but has concerns with the volume of
158 signs on that road.

159
160 Chairman Samsel suggested she bring her concerns to the planning board, which control those
161 regulations.

162
163 Mr. Breton noted that if every property went by the regulations, they would be the size of B&H and
164 they would not need relief from the zoning board.

165
166 *Tom Case, 70 Mountain Village Rd.*

167 They have a request for dimensional relief on signs. He thinks it is the board's obligation to rule on
168 what they have before them tonight; not illumination.

169
170 Mr. Breton noted if they do not continue the hearing, they would need to reapply and start all over
171 again. Mr. Dubay chose to post it correctly and continue the hearing.

172
173 **MOTION: Mr. Breton made a motion to continue the hearing to August 9, 2016 as the first**
174 **item on the agenda.**

175 **Mr. Scholz seconded the motion.**

176 **No discussion**

177 **Vote 5-0**

178 **Motion carries**

179
180 **Lot 11-A-570 & 580, Case #19-2016**

181 Request for re-hearing of decision made on 6-14-2016

182
183 Chairman Samsel stated it was a public meeting but for this rehearing request they do not entertain
184 input from the public. For rehearing requests they only determine if technical errors were made or if
185 there was new information presented that was not otherwise known at the time of the previous
186 hearing. The board reviewed the rehearing request:

- 187
188 1. a. No technical errors, no new information
189 b. No technical errors, no new information
190
191 c. No technical errors, no new information
192 d. No technical errors, no new information
193 e. No technical errors, no new information
194 f. No technical errors, no new information
195 g., i. No technical errors, no new information
196 g., ii. No technical errors, no new information
197
198 2. No technical errors, no new information
199 3. No technical errors, no new information
200 4. No technical errors, no new information
201

202 Chairman Samsel noted for the public, they need to pay attention to what is happening in their
203 district. When developers and neighbors work together on a proposal, the outcome is generally
204 amenable to all parties. In this case that did not happen.
205

206 **MOTION: Mr. Partington made a motion to deny the rehearing request for Lot 11-A-570 &**
207 **580, Case #19-2016.**

208 **Mr. Scholz seconded the motion.**

209 **Vote 4-1. Mr. Breton opposed.**

210 **Motion carries.**
211

212 There was a resident present that noted they emailed a letter to the board regarding a meeting that
213 residents had with the developer. The letter was emailed after the public hearing.
214

215 Mr. Partington noted they could not take any public testimony after the hearing so they would not
216 have been able to consider it. Chairman Samsel noted it should have been brought to the original
217 meeting.
218

219 The resident noted he appreciates the logic, but the letter is a result of the meeting they had with the
220 developer. Mr. Scholz noted the developer could submit a new application if the project has
221 changed. Mr. Breton noted that they should have emailed the letter to the developer and asked him
222 to provide that information as part of his packet.
223

224 Mr. Partington noted they were beyond the 30 days so any rehearing request would have to go to the
225 courts. Mr. Scholz noted there were very specific criteria for appeals and would recommend he
226 discuss it with legal council.
227

228 **Meeting Minutes – Review and Approve**

229 **7/12/16 Minutes**

230 **MOTION: Mr. Breton made a motion to approve the 7/12/16 minutes as amended.**

231 **Mr. Partington seconded the motion.**

232 **No discussion**

233 **Vote 5-0**
234

235 **Motion carries.**
236
237 The board requested that Mr. Gregory contact Attorney Campbell to determine what needed to be
238 included in the notice of decision and find out how much detail he would want in the minutes for a
239 rehearing request discussion.
240
241 **MOTION: Mr. Scholz made a motion to reconsider the minutes of 6/14/16 for an amendment.**
242 **Mr. Breton seconded the motion.**
243 **No discussion.**
244 **Vote 5-0.**
245 **Motion carries.**
246
247 **MOTION: Mr. Breton made a motion to approve the 6/14/16 minutes as amended.**
248 **Mr. Scholz seconded the motion.**
249 **No discussion.**
250 **Vote 5-0.**
251 **Motion carries.**
252
253 Mr. Gregory noted it was his mistake that the lighting wasn't included in the abutters notice for the
254 sign, but every applicant gets a copy of what he sends out before he sends it and they didn't catch
255 the mistake either.
256
257 Chairman Samsel noted the town is being taken to court. The date is 9/20/16 a 9:00 a.m. at
258 Rockingham Superior Court. Chairman Samsel will attend that hearing.
259
260 Mr. Gregory noted that Mr. Yennaco's term expired.
261
262 **MOTION: Mr. Scholz made a motion to reappoint Mr. Yennaco for a term expiring 5/31/19.**
263 **Mr. Breton seconded the motion.**
264 **No discussion.**
265 **Vote 5-0.**
266 **Motion carries.**
267
268 **MOTION: Mr. Scholz made a motion to adjourn at 10:10 p.m. Ms. Skinner seconded the**
269 **motion.**
270 **Vote 5-0-0.**
271 **Motion passes.**
272
273 **Submitted by Andrea Cairns**