



**LACONIA ZONING BOARD OF ADJUSTMENT**  
**MINUTES MEETING OF JUNE 15, 2015**  
**BELKNAP MILL, 7 PM, FIRST FLOOR CONFERENCE ROOM**  
**APPROVED MEETING OF JULY 20, 2015**

**Call To Order:** Steve Bogert called the June 15, 2015 meeting of the Laconia Board of Adjustment to order at 7:05 pm and thanked the public for coming.

**Roll Call by Recording Secretary:** Steve Bogert, **Chair, Present**; Suzanne Perley, **Vice Chair, Present**; Dave Greski, **Present**; Orry Gibbs, **Present**; Mike Foote, **No Response**; Kate Geraci, **Alternate, Present**; Robert Smith, **Alternate, Present**; Gail Ober, **Alternate, Present**

**M Foote was not in attendance.**

**S. Bogert seated G. Ober, alternate, for the first hearing, as she had been seated for the original hearing. Dave Greski was seated for the first hearing, in the absence of M. Foote, who had been seated for the original hearing.**

**K. Geraci was seated as a full board member for the remaining hearings in the absence of M. Foote.**

**RECORDING SECRETARY:** Kristine Y. Snow, Zoning Technician

**STAFF:** Shanna Saunders, **Planning Director**

**MINUTES:** The minutes from the ZBA meeting of May 18, 2015 were reviewed. Robert Smith said he had one correction to make. The minutes said he was both present and absent. He was not in attendance. K. Snow said she would make that correction.

**MOTION:** The motion to accept the minutes as amended was made by K. Geraci and seconded by O. Gibbs with all voting in favor of approval, 5-0 (S. Bogert, S. Perley, D. Greski, O. Gibbs, K. Geraci).

**PUBLIC HEARING:** The Heritage Commission proposed changes to the demolition ordinance asked to be continued until the next meeting, July 20, 2015.

**EXTENSION REQUESTS:**

<b>Application # 2009-0030</b> <b>Akwa Waterfront</b> The applicant is requesting a 6 month extension until January 20, 2016.	<b>MSL # 130-234-001</b> <b>Scenic Road</b>	<b>SFR Zone</b> <b>Variance</b>
<b>Application # 2009-0027</b> <b>Akwa Waterfront</b> The applicant is requesting a 6 month extension until January 20, 2016.	<b>MSL # 130-234-001</b> <b>Scenic Road</b>	<b>SFR Zone</b> <b>Special Exception</b>
<b>Application # 2009-0029</b> <b>Akwa Vista</b> The applicant is requesting a 6 month extension until January 20, 2016.	<b>MSL # 117-234-001</b> <b>Scenic Road</b>	<b>SFR Zone</b> <b>Special Exception</b>

S. Bogert read all of the extension requests into the minutes. He told Chris Duprey he could discuss all of them at the same time but the votes would be made separately.

**Applicant:** Chris Duprey appeared. He stated that they have been before the Board for several extensions. Since their last appearance they have a new plan. They started construction on 2 adjoining parcels. He showed the original project, Mid-



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Rise. They have acquired some additional parcels in the middle. They finished construction on Mid-Rise and have started construction of a duplex on the other 2 sites.

They purchased the last 3 parcels that connected all of the properties together. They have an application into the Planning Board for wetland and buffer impacts. There will be 8 units on that particular parcel.

They are continuing to work towards this site and are hoping for good sales on Mid-Rise, which would trigger the construction here.

**Board:** S. Perley asked, if all goes perfectly, how long does he anticipate it would take to build this out? C. Duprey said probably 2 – 3 years after starting. The Planning Board approval says all site work for all 3 buildings must be done first; then it depends on sales.

**Public:** No one spoke for or against the extension requests.

**S. Bogert closed the hearing to the public at 7:15.**

**Motion:** D. Greski moved to approve application # 2009-0030, using the criteria from 235-81 D, A-C. The request is based on meeting the 3 criteria. Their approval has not yet expired, they are proceeding with due diligence and good faith and the facts submitted have not changed.

D. Greski suggested that, instead of reading through, we use the applicant's words for the motion for approval.

S. Perley seconded, and all voted in favor of approval, 5-0. (S. Bogert, S. Perley, D. Greski, O. Gibbs, K. Geraci)

**Motion:** D. Greski moved to approve application # **2009-0030**, using the criteria from 235-81 D, A-C. The request is based on meeting the 3 criteria. Their approval has not yet expired, they are proceeding with due diligence and good faith and the facts submitted have not changed.

D. Greski suggested that, instead of reading through, we use the applicant's words for the motion for approval.

On September 21, 2009 the City of Laconia Zoning Board of Adjustment voted to approve application # 2009-00030 request for an Area Variance to allow the height of three proposed structures to exceed the 35' limit that is allowed in the SFR zone for MSL 130-234-001 owned by Akwa Waterfront, LLC. The Applicants/approval recipients hereby request an extension of these approvals to July 16, 2015.

The ZBA is to make the following 3 findings in granting an extension of a Special Exception under Section 235-81(D)(1)(a)-(c).

- 1) **The approval granted has not yet expired.** The Approval does not expire until July 20, 2015
- 2) **The Applicant/approval recipient has proceeded with due diligence and in good faith.** The ZBA granted the applicants an Area Variance on March 18, 2013 to allow development of a mid-rise building which is the fourth building of the larger plan for development along Scenic Road. As a result of that approval the applicants evaluated sequencing of construction and determined the better approach was to start construction on the Akwa Village parcel before proceeding with the mid-rise project approved on the Akwa Waterfront site. The applicants began construction on the North Lodges, which is located on the Akwa Village parcel, in November 2013 and as a date of the ZBA meeting, will be complete. As part of the North Lodges approval, the applicants agreed to: fund 50% of the cost of upgrades to a sewer lift station on Scenic Road; expand the walking trail network connecting the Village/North Lodges parcel through the Waterfront parcel to tie into the Akwa Vista cart path; expand the public sidewalk along Scenic Road approximately 550 feet and also extend



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the public water main in Scenic Road an additional 550 lineal feet. Upon completion of these items the Applicants will have expanded the public sewer system by 500 feet, water mains by 2,100 feet and added 1,600 feet of new sidewalk in addition to other project specific improvements.

Also, although not part of any application before the ZBA, in January 2014 an entity related to the applicants acquired MBL 124/234/2 which is one of the two parcels located between the Waterfront and Village parcels. This acquisition further connects all of the Akwa properties along Scenic Road. A Conditional Use Permit and Planning Board approval was granted in October 2014 to allow development of a duplex townhome building similar to The Townhomes at Meredith Bay. In March 2015 the applicant also acquired the remaining property between the North Lodges property and Mid-Rise parcels (MBL 124/234/1) and has submitted an application to the Laconia Planning Board for a Conditional Use Permit and Condominium Subdivision plan approval for the development of an eight unit townhome condominium located on three parcels (MBL 124/234/2; 124/234/1 and 124/234/4).

Since the initial approval of the Akwa Waterfront parcel, the Applicants/approval recipients have received Site Plan Approval from the City of Laconia Planning Board (October 5, 2010) and the Alteration of Terrain Permit from the State of New Hampshire Department of Environmental Services (June 24, 2011). Development of these properties is part of a larger plan for development by the Applicants/approval recipients (and related entities) along Scenic Road which also includes The Townhomes at Meredith Bay, a 19-unit townhome project at 569-629 Scenic Road. Therefore, the Applicants/approval recipients believe they have proceeded with due diligence and in good faith.

3) **Facts submitted as part of the original application have not changed.** None of the facts submitted in support of the original Application have changed since the date of the Approval.

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The following factors are part of the extension policy for planning board approvals (adopted on 12/14/10 - after the date of Applicant's site plan application.) Though the following factors go beyond and are different than the findings the ZBA is required to make under the Zoning Ordinance to extend the Area Variance, the Applicant believes the project satisfies each of these factors as well and offers the following as additional support:

- 1) **Applicant has made a consistent effort to meet the intent of active and substantial development and the conditions of approval including obtaining all state and federal permits, finalizing draft plans and providing site security.** See answer to #2 above.
- 2) **The zoning ordinance has not changed, and if it has, the changes do not affect this parcel.** Any zoning ordinance changes do not affect the relief granted by the ZBA.
- 3) **The abutting and/or nearby properties have not been developed or improved since the subject parcel was approved.** No abutting or nearby properties (other than those owned or controlled by the Applicant) have been developed or improved.
- 4) **Other properties in the contributing watersheds as outlined in the projects Stormwater Report have not been developed or improved since the subject parcels were approved.** No such properties have been developed or improved with the exception of the work completed by the Applicant at the Townhomes at Meredith Bay.
- 5) **Other properties in the downstream watersheds as outlined in the Stormwater Report have not been developed or improved since the subject parcels were approved.** No such properties have been developed or improved.
- 6) **The city is holding adequate (reflective of today's cost factors) site security to assure site stabilization or completion.** The City and the Applicant have agreed to the amount of site security which will be posted prior to the commencement of construction

O. Gibbs seconded and all voted in favor, 5-0. (S. Bogert, S. Perley, D. Greski, O. Gibbs, K. Geraci)

**Motion:** D. Greski moved to approve application # 2009-0027, using the criteria from 235-81 D, A-C. The request is based on meeting the 3 criteria. Their approval has not yet expired, they are proceeding with due diligence and good faith and the facts submitted have not changed.

D. Greski suggested that, instead of reading through, we use the applicant's words for the motion for approval.



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On July 20, 2009 the City of Laconia Zoning Board of Adjustment voted to approve applications # 2009-00027, 2009-00028 and 2009-00029 requests for Special Exception to allow the use of multi-family dwellings for MSL 130-234-001 owned by Akwa Waterfront, LLC; MSL 124-234-003 owned by Akwa Village, LLC and MSL 117-234-001 owned by Akwa Vista, LLC. The Special Exception will expire on January 16, 2015. The Applicants/approval recipients hereby request an extension of these approvals to July 16, 2015.

The ZBA is to make the following 3 findings in granting an extension of a Special Exception under Section 235-81(D)(1)(a)-(c).

- 1) **The approval granted has not yet expired.** The Approval does not expire until July 20, 2015.
- 2) **The Applicant/approval recipient has proceeded with due diligence and in good faith.** The ZBA granted the applicants an Area Variance on March 18, 2013 to allow development of a mid-rise building which is the fourth building of the larger plan for development along Scenic Road. As a result of that approval the applicants evaluated sequencing of construction and determined the better approach was to start construction on the Akwa Village parcel before proceeding with the mid-rise project approved on the Akwa Waterfront site. The applicants began construction on the North Lodges, which is located on the Akwa Village parcel, in November 2013 and as a date of the ZBA meeting, will be complete. As part of the North Lodges approval, the applicants agreed to: fund 50% of the cost of upgrades to a sewer lift station on Scenic Road; expand the walking trail network connecting the Village/North Lodges parcel through the Waterfront parcel to tie into the Akwa Vista cart path; expand the public sidewalk along Scenic Road approximately 550 feet and also extend the public water main in Scenic Road an additional 550 lineal feet. Upon completion of these items the Applicants will have expanded the public sewer system by 500 feet, water mains by 2,100 feet and added 1,600 feet of new sidewalk in addition to other project specific improvements.

Also, although not part of any application before the ZBA, in January 2014 an entity related to the applicants acquired MBL 124/234/2 which is one of the two parcels located between the Waterfront and Village parcels. This acquisition further connects all of the Akwa properties along Scenic Road. A Conditional Use Permit and Planning Board approval was granted in October 2014 to allow development of a duplex townhome building similar to The Townhomes at Meredith Bay. In March 2015 the applicant also acquired the remaining property between the North Lodges property and Mid-Rise parcels (MBL 124/234/1) and has submitted an application to the Laconia Planning Board for a Conditional Use Permit and Condominium Subdivision plan approval for the development of an eight unit townhome condominium located on three parcels (MBL 124/234/2; 124/234/1 and 124/234/4).

Since the initial approval of the Akwa Waterfront parcel, the Applicants/approval recipients have received Site Plan Approval from the City of Laconia Planning Board (October 5, 2010) and the Alteration of Terrain Permit from the State of New Hampshire Department of Environmental Services (June 24, 2011). Development of these properties is part of a larger plan for development by the Applicants/approval recipients (and related entities) along Scenic Road which also includes The Townhomes at Meredith Bay, a 19-unit townhome project at 569-629 Scenic Road. Therefore, the Applicants/approval recipients believe they have proceeded with due diligence and in good faith.

As part of the North Lodges approval, the applicants agreed to: fund 50% of the cost of upgrades to a sewer lift station on Scenic Road; expand the walking trail network connecting the Village/North Lodges parcel through the Waterfront parcel to tie into the Akwa Vista cart path; expand the public sidewalk along Scenic Road approximately 550 feet and also extend the public water main in Scenic Road an additional 550 lineal feet. Upon completion of these items the Applicants will have expanded the public sewer system by 500 feet, water mains by 2,100 feet and added 1,600 feet of new sidewalk in addition to other project specific improvements.

- 3) **Facts submitted as part of the original application have not changed.** None of the facts submitted in support of the original Application have changed since the date of the Approval.

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The following factors are part of the extension policy for planning board approvals (adopted on 12/14/10 - after the date of Applicant's site plan application.) Though the following factors go beyond and are different than the findings the ZBA is required to make under the Zoning Ordinance to extend the Special Exception, the Applicant believes the project satisfies each of these factors as well and offers the following as additional support:



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- 1) Applicant has made a consistent effort to meet the intent of active and substantial development and the conditions of approval including obtaining all state and federal permits, finalizing draft plans and providing site security. See answer to #2 above.
- 2) **The zoning ordinance has not changed, and if it has, the changes do not affect this parcel.** Any zoning ordinance changes do not affect the relief granted by the ZBA.
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- 5) **Other properties in the downstream watersheds as outlined in the Stormwater Report have not been developed or improved since the subject parcels were approved.** No such properties have been developed or improved.
- 6) **The city is holding adequate (reflective of today's cost factors) site security to assure site stabilization or completion.** The City and the Applicant have agreed to the amount of site security which will be posted prior to the commencement of construction.

**Motion:** D. Greski moved to approve application # 2009-0029, using the criteria from 235-81 D, A-C. The request is based on meeting the 3 criteria. Their approval has not yet expired, they are proceeding with due diligence and good faith and the facts submitted have not changed.

D. Greski suggested that, instead of reading through, we use the applicant's words for the motion for approval:

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and Condominium Subdivision plan approval for the development of an eight unit townhome condominium located on three parcels (MBL 124/234/2; 124/234/1 and 124/234/4).

Development of these properties is part of a larger plan for development by the Applicants/approval recipients (and related entities) along Scenic Road which also includes The Townhomes at Meredith Bay, a 19-unit townhome project at 569-629 Scenic Road. Therefore, the Applicants/approval recipients believe they have proceeded with due diligence and in good faith.

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The following factors are part of the extension policy for planning board approvals (adopted on 12/14/10 - after the date of Applicant's site plan application.) Though the following factors go beyond and are different than the findings the ZBA is required to make under the Zoning Ordinance to extend the Special Exception, the Applicant believes the project satisfies each of these factors as well and offers the following as additional support:

- 1) **Applicant has made a consistent effort to meet the intent of active and substantial development and the conditions of approval including obtaining all state and federal permits, finalizing draft plans and providing site security.** See answer to #2 above.
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- 6) **The city is holding adequate (reflective of today's cost factors) site security to assure site stabilization or completion.** The City and the Applicant have agreed to the amount of site security which will be posted prior to the commencement of construction.

O. Gibbs seconded with all voting in favor, 5-0 (S. Bogert, S. Perley, D. Greski, O. Gibbs, K. Geraci).

Steve Bogert let the public know that there is no public input permitted on the following item. The board will discuss the issue amongst themselves. Seated for this hearing were D. Greski (for M. Foote), G. Ober, O. Gibbs, S. Bogert, and S. Perley. S. Bogert said if the board decides to grant the re-hearing the public could speak at the next meeting when the hearing would be held.

**RE-HEARINGS REQUEST:**

**Application # 2015-0001**  
**B. & J. Leroux**

**MSL # 345-168-1**  
**58 North Street**

**RG Zone**  
**Variance**

The applicant is requesting a re-hearing for a variance request from 235-28, Uses Not Permitted, in order to keep a rooster. This is considered agricultural use and that is not permitted in the RG zone. The rooster is a pet and kept mainly indoors. The original request was denied at the May 18, 2015 meeting.

**Board:** S. Bogert asked if the members reviewed the request for the re-hearing. All responded yes. S. Bogert asked if anyone found any new evidence that was not discussed the first time, other than the additional letters.



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O. Gibbs said she still does not feel the bird is an agricultural use per our definition; he is clearly a pet. S. Bogert said he is still considered agricultural per the US Department of Agriculture.

O. Gibbs said they are simply saying it is agricultural due to its species. She stated that everyone who has a fruit tree or garden is in violation of our ordinance right now. She said she feels we should look at these case by case. They do not have the use of eggs - selling or eating them. She said she wants to make her position clear for the meeting.

D. Greski said all people who have pets feel that way but we have to go by the information submitted; nothing new was presented. He read the three reasons for granting a re-hearing; new information was submitted, the board's original decision was made in error, or the ZBA erred in their process. He doesn't feel any of those were met.

O. Gibbs said she still feels we erred in calling this bird agricultural. D. Greski said they live in a zone where you cannot have poultry. If you buy into that zone you have certain expectations. Your expectation is that you don't wake up with a cow looking into your bedroom window. There are zones that you can buy or rent in where you could have this type of thing. The expectation here is not to have these types of animals located in this neighborhood.

O. Gibbs said if you were asking for this use, you could come before the ZBA and ask; we would look at this on a case by case basis. S. Bogert said if we permit one farm animal others will follow. They are all are farm animals no matter what.

O. Gibbs says she gets annoyed at people on her street who have 3 yappy little dogs as they bark at her every morning. If they were her direct neighbors she would complain constantly about them.

D. Greski said we can't change what the ordinance says they have to abide by. He said there is no end once you open the door. We have to play to the requirements for either re-hearing or denial.

R. Smith said we allowed a church in an industrial park; that is in violation of our ordinance. He said that 5-10 years ago, the rules were there and you abided by them. Now the courts views seems to have shifted. He thinks we need to look at this request closely. He sees a lot more names from the community than before. O. Gibbs agreed, and said she feels that is new evidence. R. Smith said they have the community support and feels they are entitled to the re-hearing.

S. Bogert said that is not new evidence. R. Smith said his old neighbors had a parrot, who made a horrible noise. He would be permitted here per O. Gibbs. She feels this is an injustice to the applicant.

S. Bogert said the guidelines are what we have to go by. He said he does agree with R. Smith, that the courts have allowed more things now.

G. Ober said she doesn't consider more support from the community to be more evidence.

D. Greski asked S. Saunders if that type of submission would be considered evidence. S. Bogert said he feels the ZBA needs to make that interpretation. S. Perley asked if anyone thinks they made a technical error in their findings.

K. Geraci asked if that is the only reason and S. Perley said we went through this with chickens. They have been denied in the past. The change to the ordinance to allow chickens was done and it failed. All of the supporting documentation said that roosters were not permitted. She stated that if you allow this rooster as a pet, then anyone who wants a chicken can call it a pet.

K. Geraci said she thinks that first we only had family support, but now we have community support, including a letter from his vet. She feels that Pecker fits the definition of pet. She said that our society now calls other things pet than the traditional. We should evolve a bit in our thinking on this.

S. Bogert said one can agree with the evolution of laws and rules but we still have to go by the guidelines provided to us. The government says these are farm animals, not pets.



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S. Bogert asked if anyone feels the board made any error in judgment with their original findings. K. Geraci said pet and agriculture are both defined and Pecker fits into pet, not agriculture.

K. Geraci said people don't keep roosters unless they are breeding. They have one only. She feels these are two different issues.

D. Greski said to go back to what he said about expectations. There are zones where you can have roosters but not in this zone.

There is no hardship per S. Bogert. This is against the zoning here. No one can have roosters, no one can have chickens as a pet. There is nothing unique that exists here for this property.

D. Greski said next month it could be a goat. The door would be opened and other things could move into the zone.

**Motion:** G. Ober moved not to grant the re-hearing request with the second by D. Greski. 4 voted not to grant the re-hearing (S. Bogert, S. Perley, G. Ober, D. Greski), with one in favor of granting it (O. Gibbs)

S. Bogert let the applicant know that the motion for the re-hearing is denied. He let them know that they do have re-course. If they take this to the next level, they must do it within the 30 days.

**HEARINGS: (Continued)**

S. Bogert stated that the applicant requested this be continued until July 20. The board did receive an e-mail. S. Saunders stated that she had met with them and know that they do want the continuance.

**Application # 2015-0006**  
**Fat Boy Kole, LLC**

**MSL 407-227-50**  
**11 Walker St**

**C Zone**  
**Variance**

The applicant is requesting a continuance to the July 20 meeting in order to prepare additional information for the board. He had requested a variance from 235-49 (B) in order to use an area of their property for a loading zone. The area in question is located along the Butler Street frontage.

S. Bogert let the applicant know that the following two applications would both be read into the record. The board will hear both of the applications at once, but will make decisions separately.

O. Gibbs recused herself and G. Ober was seated for O. Gibbs. K. Geraci was again seated for this hearing.

**HEARINGS: (New)**

**Application # 2015-0012**  
**A E Mitchell**

**MSL # 162-252-11**  
**38 Endicott St N**

**CR Zone**  
**Variance**



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The applicant is requesting a variance from Table VI, Table of Sign Regulations, in order to keep a sign that is larger than the 72 SF permitted in the zone. The sign has been in place for some time with no permit. It currently is 107.5 SF and the applicant is downsizing it to 100 SF.

**Application # 2015-0009**  
**A E Mitchell**

**MSL # 162-252-11**  
**38 Endicott St N**

**CR Zone**  
**Special Exception**

The applicant is requesting a special exception from Table VI, Table of Sign Regulations, in order to erect an EMC sign.

**Applicant:** Al Mitchell appeared along with Annie Paquette of Paquette Signs. A. Mitchell stated that A. Paquette will represent him for the hearing.

A. Paquette said that K. Snow had let him know she could locate no previous sign permits for the property. He did not originally build the sign that was there but stated that he was familiar with it and had done some work on it in the past.

He passed out some additional information on the property and gave a history of the structure. Around 1995 the Smoke House took over, and in 2010, The Wide Open. The current sign has been there since The Smoke House at least.

They want to permit the existing sign, with the current size. The building was removed and A. Mitchell has a new paved parking lot. The sign will help to refresh the image and help fuel the economy. It is located in an appropriate location. The existing concrete base was reinforced for stability. The sign is not changing in height or width, and the replacement of the interior will be the EMC. They feel it should be grandfathered but due to not being able to locate any permits, are applying for the variance.

The variance will not be contrary to public interest as the sign has been accepted in Laconia for several years. The proposed sign is a similar size sign, being a bit smaller, and the existing sign still stands. They are re-using the supports from the original sign.

The spirit of the ordinance is observed as the sign has already existed in this location, at the larger size. The applicant is just trying to make this legal.

Substantial justice is done as the use is a permitted use in the zone. This allows the owner to advertise his business, time and temperature, and community events.

The value of the surrounding properties won't be diminished. This type of sign is used regularly in the Weirs. This is not a unique setting. This would be used to advertise upcoming events in the community and time and temperature. There are neighboring EMC's that abut on both sides. The sign at the Drive-In has 4 LED's that are much larger. Thurston's has a similar sign. The Weirs Beach sign and the one for Logs of Fun are both within sight.

Literal enforcement of the ordinance would result in an unnecessary hardship. They feel this sign should be considered an existing sign and be grandfathered. The proposed use and size are reasonable.

**Board:** S. Perley said that currently there is no building so in the future, should a building be constructed, would they need more signage? Would approving the replacement of this sign affect any future use? Al Mitchell said he is not planning on additional signage. He was asked about the placement of the sign and stated it was probably about half way between the Drive In and Thurston's.

S. Perley said that the new requirements state they cannot use over 75% of the sign for the EMC. A. Mitchell said he is aware of the new requirement and has plans to box in the area and make it look nice.

D. Greski clarified that he intends to use this to post messages for his business and was told yes. S. Bogert said this could be a billboard, as this is a parking lot. There is no business here to advertise. He asked A. Mitchell if he had immediate



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access to the sign what would he do and was told if this were done tomorrow he would advertise his vendors for Bike Week. They are unsure of what the future will be. They could use this for general information for the Weirs.

Annie Paquette passed out some additional information, and D. Greski clarified that it was replacing what had been originally submitted.

D. Greski said this is a freestanding sign in the CR zone, so why can't he just take this to the 72 SF? Why does he need a variance for the sign if he can meet the 72? A. Mitchell said he could do the 72 SF. D. Greski read the criteria and asked if A. Mitchell would install 74 SF of signage without a variance. He was told yes.

**Application # 2015-0009: Special Exception:**

S. Perley asked how he plans to use this. Al Mitchell said he could remove the lower sign and only do the upper and meet the 72 SF. He wants to use the same framework. He was told that 75% of the 72 SF can be used for the electronic message. S. Saunders read the wording.

Annie Paquette explained the sign. Al Mitchell said he had wanted the entire sign to be EMC. A. Paquette said it is currently two portions now.

D. Greski explained that the entire sign is 72 SF, but only 32 SF is electronic, 40 is standard. That is the 72 SF. A. Mitchell said he wanted the entire sign, 72 SF, to be electronic.

G. Ober said we don't know what is going to happen at this site. She read the definition of on-site sign. S. Bogert asked A. Mitchell if this is on a vacant lot, what would he advertise? D. Greski said he wants to be clear on what he is advertising.

Al Mitchell said he will use it to advertise parking here, as for Bike Week, and the time and temperature. D. Greski asked if he could advertise parking, S. Saunders said not without a permit to be a parking lot.

S. Perley asked if he wants this sign to go up before next weekend and A. Mitchell said no.

Annie Paquette showed the board members a picture and S. Perley said that, as shown, it doesn't meet the ordinance.

The board wants him to come back to the July 20 meeting with additional pictures since he isn't in a rush. He said he cleaned the site up in 34 days. S. Saunders said she will meet with Annie Paquette to make sure the criteria his met.

**Motion:** S. Bogert moved to continue the hearing until the July 20 meeting of the ZBA. S. Perley seconded, and all voted in favor of continuing. (S. Bogert, S. Perley, D. Greski, O. Gibbs, K. Geraci) The hearing was over at 8:13 pm.

**Application # 2015-0010**  
**Wayne Thayer**

**MSL 411-209-3**  
**50 Strafford St**

**DRD Zone**  
**Variance**

The applicant is requesting a variance from 235-B, Side/Rear Setbacks, in order to add a room to the residence. This will square off the house and the addition will not project any further than the existing structure does.

**Applicant:** Wayne Thayer appeared. He stated that he grew up in the house. This is a single family home. The houses are attached and there is one basement. He purchased it from his father. The home itself is located at the corner of Strafford, Bisson, and Hudson. The large structure is a 3 bedroom apartment up and 3 bedroom down. The homes actually touch, with one basement.

The back room has the access to the back yard, which is through his bedroom. They have no door on the bedroom. They want to square this off, make this an additional room, and have a real master bedroom. His neighbor has no issue with it. They want some privacy, as they have children.



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D. Greski asked how high he wants to go. What is the size? W. Thayer said 10'2" x 10'11". D. Greski asked what is the height and W. Thayer said he would like to go up as well as he would like to add an additional room to the children's bedroom. He wants to go up 2 stories, would be lower than the existing structure.

D. Greski said he just needs clarity for the application and asked if they want to add one room or two. W. Thayer said he wants to extend the small master bedroom and also go up and extend those rooms as well. There are now two small bedrooms upstairs.

D. Greski mentioned greenspace, which must be 20% in the DRD. D. Greski said the application should state what they are asking for; he only mentioned adding one room and not going up. S. Perley said he is asking for a 10 x 10 addition, which is already in the setback, so in this case the height doesn't matter.

S. Bogert said he figured out the greenspace. K. Snow said she is sure she determined that or she would have told him he needed 2 variances.

S. Bogert said this is about 43% greenspace so he does meet the greenspace requirements.

S. Bogert said we can put a condition that states that the height cannot exceed the height of the current structure. If we state that the roofline must match, that way it cannot exceed the height requirement.

S. Perley said this is in the rear, and no one would be affected by it. W. Thayer said that the day care can see it. Right now his house is about 12-16" from the property line. The house is currently in the set back.

D. Greski clarified that the infringement already exists, and they would just be squaring this off.

**Public:** No one from the public spoke for or against the application.

**Board:** There were no further board questions and no closing comments. W. Thayer said he just wants to be able to improve his home., make it look better and give them more space.

**S. Bogert closed the hearing to the public at 8:36.**

**Board:** S. Bogert said the property owner is squaring this off. We can make it a condition of approval that he can't go any higher than the current structure.

**Motion:** K. Geraci moved to approve Application # 2015-0010. This won't be contrary to public interest. There will be little to no impact on the public, as the proposed addition is located in the rear of the house; he is just squaring this off.

The spirit of the ordinance is observed as there is no impact to the public, and no substantial change to the use. He is just adding a small addition.

Substantial justice is done as this won't harm the abutters. There is no impact on the health, safety, and welfare of the general public.

The values of surrounding properties are not diminished. These are all residential homes, and this will fit into the area. These are older homes, with small rooms. He is simply adding a small addition.

The board added one condition of approval:

The new structure will adhere to the height of the current structure and will not exceed it.



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S. Perley seconded, with all voting in favor, 5-0. (S. Bogert, S. Perley, D. Greski, O. Gibbs, K. Geraci). The hearing was done at 8:30 pm.

W. Thayer asked if he could address the board on a recent issue had had. He mentioned that the city owns a parking lot with some green space. There is a bridge to old folks home, and there was some storm damage last fall. One of the trees has fallen over and blocked the bridge. Another blew down by the pylons. He went down and cut the trees that had blown down. Someone from Parks and Rec showed up, and made several rude comments to him. He was told to call Parks and Rec and speak to Kevin Dunleavy to address that.

**Application # 2015-0011**  
**Patricia Moriarty**

**MSL 388-220-14**  
**585 Union Avenue**

**C Zone**  
**Variance**

The applicant is requesting a variance from Table IV, Table of Sign Regulations, in order to allow tenants of the 585 Union Avenue property to have consistent signage for the businesses located here. The total permitted here is 216 SF and a total of 363 SF is being requested.

**Applicant:** Patricia Moriarity appeared along with John Moriarity and her husband, Craig. She said that Craig will do the presentation this evening.

C. Moriarity said the complex is actually named the 8 Gables Mall but that sign is no longer there. This is in the Commercial district and they don't feel this unique building fits into the ordinance as written.

Back in the 80's they merged several properties. They began the process in 1982 and did this in two phases. They went to the Planning Board, and did their proposal, which passed. They got their approval, which included signage. They met the requirements at that time.

The original site plan was filed with John Ashey, who had approved the signage. C. Moriarity said that the tenants require a certain amount of signage. There is a lot of competition.

Some of the businesses would decrease in size, others would have an increase. They would also, at some point, like to replace the road sign with an EMC.

John Moriarity said when the building was built, the formula was different. This was compliant with the ordinance at the time. 318 SF was within the allowable signage then. The ordinance did change at some point. J. Moriarity said there have been 3 changes in the ordinance since; the one done in 1992 changed the frontage calculations.

J. Moriarity said they are applying to be compliant with what they were once compliant with.

S. Perley said each business has their own unique sign. C. Moriarity said yes, now it is all different. Trucks used to hit the sign lights so they changed those and other tenants had to change their designs to meet their business criteria.

D. Greski asked why they can't control that. If there are 11 units, divide 216 by 11, and they each get 21.6.

C. Moriarity said that the 2 x 10 sign proved an issue with national franchises. They either had a 2 x 10 or 3 x 8 internally illuminated sign.

D. Greski asked about the freestanding sign and was told it came down after a storm.



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J. Moriarity showed pictures of the mall and said you can see the signs in this picture. He then showed a black and white photo of the freestanding sign. It was redwood with letters carved into it. It was there until about 6 years ago. D. Greski asked if this is included in the total signage and was told yes.

J. Moriarity showed an actual photo of it on site, illuminated. He showed photos of some of the existing signs. He showed the Nationwide, which is one of the 3 x 8 signs. All Sports Cards sign is one of the original 2 x 10 signs. The winds took out the sign by the street. At that time, the sign allotment was 318 SF, which met the ordinance at the time of approval. The original freestanding was 59 SF. They would ask for the 72 permitted if replacing that. He did not include a picture for that. They would apply for what is permissible for the size today. He was reminded that if applying for an EMC, they could only utilize about 54 sf.

C. Moriarity said it would help his tenants. The EMC would have no animation. If they change a tenant, this would work better for them. He said he thinks this is realistic and reasonable. He doesn't feel they are going overboard with this. They need to define what they want to do. The building sets back quite a way.

S. Bogert asked if these were separate lots at one time and C. Moriarity said yes, they combined them. He said this was an award winning building. He said that we need to support the businesses in town.

C. Moriarity said the franchises spend a lot of money to re-franchise.

The proposed Dominos sign will be smaller in area than the current. S. Bogert asked about the sign in the packet with the 7 signs shows and J. Moriarity said they have 7 tenants upstairs, who would get one sign only. This would be a larger sign with 7 small portions and it would replace the current 48 SF sign. The signs are all currently all on one level, but alternate for businesses down and businesses up.

S. Bogert said that a lot of the businesses have no increase at all and C. Moriarity said he had one business of about 900 SF that had no signage at all. S. Bogert said another significant change is the 7 tenant sign for the upstairs businesses.

S. Perley clarified that this request includes the square footage for the EMC but not the actual permitting for the sign.

**Public:** No one from the public spoke for or against the proposal.

**S. Bogert closed the hearing to the public at 9:08 pm.**

Gail Ober said she thinks this makes logical sense and she can see what they are trying to do and she has no issues with this.

S. Bogert said we try to help the business when we can. We understand that businesses are always growing and they need to try and keep up.

D. Greski said that the sign ordinance was just done in 2014 and that the team that worked on the sign ordinance determined that the 216 SF was appropriate for the zone. S. Perley said that was not changed; it already existed. What they looked at were the EMC's. She said she thinks we should support the businesses and give them the tools to be successful.

G. Ober said she feels that in the Commercial zone we may be being overly restrictive.

S. Perley clarified that they only dealt with the EMC signs. S. Bogert said if this was a single business, then the signage would be an extreme request. He said that one has to look at the use of the property; here there are 11 businesses. If this were 11 separate businesses, it would be done differently and they would have even more signage. He said they are trying to make this look appropriate. If everything was cut and dried, we would not need the board.



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D. Greski said they are already 100 SF over and S. Bogert said no, he met the past code. They are asking to **go** up but not all that much. This is not one huge sign. They are going to create a 24 SF sign for the 7 businesses located on the second floor.

D. Greski said if working towards the ordinance, the ordinance should be right. He feels this should be looked at. R. Smith said maybe we should put something for a strip mall in the ordinance.

S. Bogert said this is one situation where we have to look at the property, this is between the old and the new. Each property has its own individual case. He said this is a realistic request. The street sign will help them, and is only 12' larger than what was there and will meet today's code.

S. Bogert said that, overall, he feels this is reasonable.

**Motion:** S. Perley moved to approve Application # 2015-0011 for the increase in signage to the 363 SF. She said this is not contrary to public interest. This is an unusual property which has multiple businesses. It is unique in its location. The original approval was done 30 years ago. The request does not harm the public or private rights of others.

This is consistent with the spirit of the ordinance and doesn't threaten the public health, safety or welfare of the general public.

Substantial justice is done as the use is consistent with the character of the area and no change in use is being proposed. This is located in a business focused area of the city and this will cause no harm to the general public.

Values of surrounding properties won't be diminished. This will have no effect on the properties.

Literal enforcement of the ordinance would result in unnecessary hardship because of the special conditions of the property. There are up to 11 businesses located in one complex. This will allow the businesses to promote themselves.

The proposed use is a reasonable one and in keeping with the area.

**S. Perley added one condition:** The freestanding EMC is included in the square footage but is not approved by right. When they erect that sign the applicant would need a Special Exception to do that.

K. Geraci seconded, and the vote was 4 in favor (S. Bogert, S. Perley, O. Gibbs, and K. Geraci) and 1 against (D. Greski).

**OTHER BUSINESS:** None

**ADJOURNMENT:** S. Perley moved to adjourn, with the second by D. Greski. All voted in favor, 5-0, and the meeting adjourned at 9:22 pm (S. Bogert, S. Perley, D. Greski, O. Gibbs, K. Geraci).