

**Zoning Board of Adjustment
Town Hall
Wednesday, August 18, 2021
7 pm**

Present: Board Members Chair Jan Leclerc, Vice-Chair Myra Mansouri, Clerk Tom Murray, Ernie Vose, Pauline Barnes, Alternate Judy Trow. Absent: Alternates Don Sellarole and Dave Edkins.

Recording: Marilou Blaine. These minutes were recorded. They are unapproved and will be reviewed at the September 2021 meeting for corrections, additions and/or omissions.

Roll Call: Ms. Leclerc called the meeting to order at 7:03 pm. There were five board members present so an alternate was not needed to fill in.

Minutes: Minutes of July 21, 2021. Corrections Page 2, paragraph 4, Ms Barnes said the second to last sentence should say "Ms. Mansouri made a motion to come out or nonpublic session at 7:40 pm." Same page second to last paragraph, first sentence add "the webinar was presented by two NH Municipal Association lawyers." Page 2, last paragraph, Ms. Leclerc said to change the two words that say "ordinance" that are in lower case to "amendments." Ms. Mansouri made a motion to approve the corrected minutes. Ms. Barnes seconded the motion and the motion carried unanimously.

The nonpublic session minutes of July 21, 2021. These minutes were approved later in the meeting. Ms. Mansouri made a motion to approve and seal the nonpublic minutes. Mr. Murray seconded the motion and it carried unanimously.

New Business:

Len-Tex proposal for a Design and Digital Print facility at 4 Ames Plaza, Tax map 12, Lot 55-5, Commercial District. Also, possible retail of sales for custom commercial wallcovering printing. Presenting Don Lennon, president of Len-Tex Corp. Also present at the meeting was Vice-president Charlie Lennon. Informational meeting.

Mr. Don Lennon introduced himself and said their company is planning to buy the building at 4 Ames Plaza Lane where currently the business owned by of Doug Palmer of Smart Power Sports is located. It will be a digital print facility using one or more 64-inch HP Latex digital printers. These printers use inks similar to latex paint and produce no emissions and very little sound, Mr. Lennon's introductory letter says. He expects a maximum staff of 5 and will be in operation weekdays from 7 am to 5 pm. There are 14 parking spaces.

Mr. Lennon said the company in North Walpole designs, produces and supplies custom commercial wallcoverings to all the major hotels in the United States, as well as to 36 foreign countries. They also sell the company's product to the healthcare industry, schools and much more. Literature on the wallcoverings says, "Most people spend 90 percent of their time indoors. Poor indoor air quality can be caused by excessive emissions of volatile organic compounds (VOCs)...The EPA-listed chemicals of concern that have been removed are:

- Phthalates (endocrine disruptors)
- Heavy metals - antimony, arsenic, barium (carcinogens)
- Formaldehyde (carcinogen)
- Phenol (skin irritant)

The company literature also boasts that their wallcoverings provide "built-in protection against odor,

stain causing bacteria, mold and mildew.

The new printers are capable of printing very large art work such as murals. Mr. Lennon called it “the coolest stuff imaginable.”

Ms. Barnes asked about the rollers on the machines that print the current wallcoverings in North Walpole. What are you going to do with the rollers when you go out of business? she said. Mr. Lennon said he had no intention of going out to business. That operation will remain a huge part of the business. But there is a massive difference between visual printers and steel rollers. With the rollers the design work is limited to printing 18 inches in diameter and 54 inches in circumference. But with the new technology, the company can now create floor to ceiling images. The goal is to create wallcoverings for three walls of a guest room in a hotel and a create a compatible design for the headboard. Mr. Lennon invited the board members to visit their facility.

Ms. Leclerc said your proposal is commercial and it is zoned commercial so you don't need a special exception or a variance. She suggested Mr. Lennon check with the Planning Board because if the proposal costs more than \$10,000, you will need to fill out an application for a site plan review. The \$10,000 is for construction or renovations of the space, not for equipment such as the printers. Mr. Lennon replied, “That building's perfect.” Ms. Leclerc advise him to just check. Mr. Don Lennon asked his brother, Charlie, if he had checked with board member and Select Board member Steve Dalessio and he replied “yes.”

Signage: Doug and Laura Palmer: 308 Main Street, Tax Map 24, Lot 13, Commercial District.
Smart Power Sports retail and storage.

Mr. Palmer introduced himself. He said the sign will be on road side of the building. Will he need a special exception or a variance? he asked. He said the sign will not be 60 feet from the traveled edge of the street. He was at the meeting to ask for a public hearing in September. According to Mr. Palmer, the sale of the building that was his business in 4 Ames Plaza Lane is perfect timing.

Mr. Vose asked him where the building was for its new location. Mr. Palmer said, “You've seen this building a million times, Palmer said. It's the one that used to have the deer on it and was formerly owned by RN Johnson. Ms. Barnes asked how old it is? Mr. Palmer didn't know exactly but guessed 60 to 70 years. It was his understanding that the building was two separate barns that were put together.

The sign is 33 inches by 22 inches and it will hang 90 degrees from the road side of the building so the sign can be seen by people coming and going. He said his business is 90 percent online but if someone is searching for him, he wants to make it easy for people to locate him. So that would put it pretty close to the road, Mr. Vose said. The building is 20 feet from the road so it would put the sign at about 17 feet from the road. Regarding his question of variance or special exception, Mr. Palmer pointed to Article IV General Provisions No. 9 Special Exceptions. It says “signs of six (6) square feet may be placed between ten (10) and sixty (60) feet of traveled roadway between (20) and 100) feet of another sign by Special Exception from the Zoning Board of Adjustment when the Board is satisfied that the provisions of Article IV will be met and that the sign as placed will not have any adverse effect on abutting properties.”

Ms. Trow confirmed that a Special Exception was the correct ordinance and the sign was not over six square feet. It will require a public hearing next month. Ms. Trow asked if there would be other signs. Mr. Palmer said no, not at this time. Ms. Barnes moved that the board hold a public hearing for a special exception for a sign at 308 Main Street in September at our next meeting on the condition that

the application be completed and all required fees are paid. Mr. Murray seconded the motion and the motion carried.

The secretary asked that the application be completed and fees paid by August 28 and that Mr. Palmer email her a copy of everything and bring the application and fees to the Town Offices. He said he would.

Peter and Kimberly King, 46 Dearborn Circle, Tax Map 12, Lot 55-22, Residential B District. The Kings are building an addition that will go in the front of their house. It is 2 feet shy of the required 65 feet from the center of the road.

Mr. and Mrs. King have lived at this address for 15 years and through the years there have been a multiple additions and improvements. The family really needs this space for the family and they debated whether to move or stay in Walpole. But because of the current housing market and since the family likes living in their neighborhood, they are planning on staying. Their children are 15 and 13 years old and the youngest is in her last year at Walpole Elementary School. Their son is in high school. They decided to add a living room to the west side of the house. It is 12-feet-by-20-feet. Dan Ferland will be their builder and they paid to have an architect draw up plans. The addition has a gable roof facing the road. There is a beautiful large window in the center of wall. The Kings sent drawings of the outside as well as the interior. The house is a ranch. The architectural plans were of the basement and first floor, including the crawl space under the planned addition and the entrance. It is 63 feet from the center of the road, 2 feet shy of the requirement. Ms. Leclerc said they will need to fill out a variance. It has five criteria.

Mr. King said he already has a few people lined up. The excavation is all set up and a foundation is ready to be poured. Mr. King has already taken down a spruce tree that was planted when they moved in. It was just a couple of feet high then. When cut down the tree was 18 feet long and had quick a large trunk. It has been a Christmas tree for the family for many years. Mr. King said he wanted to do the right thing right and that everyone working on the project is "pretty much local."

Kimberly King asked about abutters. Who was considered an abutter? Is someone across the street an abutter. Ms. Mansouri said yes. She said she needed help with the process.

The RSA for the definition of abutter is in the NH Planning and Land Use Regulation" manual. RSA 672:3 "Abutter" means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local use board."

Ms. Leclerc said you know you need a variance. There are five criteria on the application and you need to answer the five questions.

Mr. Vose said he was making a motion to set a public hearing for next month and the application must be complete and the fees paid. Ms. Mansouri seconded the motion. The motion carried unanimously.

Ms. Blaine asked that the application be completed and fees paid by August 28 and that Mr. Palmer email her a copy of everything and bring the application and fees to the Town Offices. He said he would. She offered to look up abutters and send the list to the Kings.

Old Business:

Sort-term rentals. Any update on Conway, NH decision?

Ms. Leclerc said there is not much to say about short-term rentals. Ms. Barnes said the plaintiff has to

put their case forward by the end of September so it will be some time after that when a decision on the Conway court case about short-term rental is complete.

Report on visit to Planing Board:

Earlier this month, the ZBA board attended a PB meeting to submit two amendments to the zoning ordinances for a public hearing in September and then be placed on the warrant next March. Ms. Mansouri, Ms. Barnes and Ms. Leclerc attended. Ms. Barnes left shortly after the meeting began because their presentation wasn't going to be until the end.

Ms. Leclerc told the Planning Board that the Zoning Board had prepared two amendments to the zoning ordinances. Both regard signs. She would like to have a public hearing next month so the Board can present them to the town next March on the warrant. She said that last year the Zoning Board had a brief discussion with the Planning Board about feather fabric signs in the commercial district. The Planning Board asked the ZBA to get a Select Board opinion. The Select Board thought that feather flags should be addressed specifically in an ordinance. So one amendment has to do with feather flags. The other amendment is a definition of temporary signs, which at this time aren't specified in the ordinance, so technically they are not allowed. There was a motion to hold a public hearing next month, the motion was seconded and approved by the Planning Board.

Solar Array:

During the August Planning Board meeting, after a presentation on the 1 mega watt solar array by Dan Weeks, vice-president of Revision Energy, about the proposed in the commercial district, Chair Jeffrey Miller announced that the solar array was in an industrial use and it will need a special exception. That means that any decision on the solar array was handed over to the Zoning Board. At tonight's ZBA meeting, there was no one representing the solar array proposal. The secretary said she tried contacting Mr. Jim Clifford of NGP Management by email but hadn't heard from him yet. However, she has heard from the company's lawyer by email.

Ms. Mansouri said as she was leaving the Planning Board meeting, she saw the principles of the solar array company in the hallway of the Town Offices. She introduced herself and mentioned that they would need an application for a special exception. Ms. Leclerc said there is nothing for the board to do until they come to a meeting. She said they need an application for an industrial use in a commercial zone. That is in the town's ordinance. The definition of industrial is bringing in one material and creating another material. It technically fits that description. But a lot of other concerns the board might have for industrial use, such as noxious odors, noise, etc. will be non issues if it ever comes to the board.

Ms. Barnes asked, "I wonder if that holds for a grocery store if you bring in a side of beef and the butcher cuts it into steaks?" Is that transforming one thing into another? You are making steaks starting with raw materials. And what about a copy machine? she asked.

According to our town ordinances "manufacturing operations are those in which materials are changed physically in form, changed chemically or mixed to provide other compounds."

Ms. Leclerc said it's a gray area. She and Ms. Mansouri spoke to someone about solar array and he considered solar arrays to be a commercial use. But the Planning Board has decided it should be industrial. So that's the hang up about a possible suit? Mr. Murray asked. Ms. Leclerc said no, she doesn't think that's the hang up. At the meeting Mr. Miller said he considered a solar array an industrial use because they were changing sunlight into electricity so it needed a special exception.

Mr. Murray said he thought the ZBA has more power then the Planning Board. In a hand out Ms.

Barnes gave us, he said, it says the ZBA can decide if a variance or special exception is really needed. That came from her notes from a June 2019 state conference.

But they still have to come before us for a ruling on that, Ms. Trow said.

So this is to be decided on the definition of industrial/commercial? Is it the Planning Board's purview or the Zoning Board of Adjustment's purview? Ms. Mansouri asked. "They sent it to us, we will decide."

Ms. Mansouri said she thought industrial has more to do with chemicals. Mr. Murray said it needed a recommendation from the Planning Board. Later in the meeting Ms. Leclerc said she didn't actually think it did need a recommendation from the Planning Board.

Definitions: Article XVII:

The secretary proposed moving the definition section (Article XVII) because a lot of the definitions are already in Article IV General Provision. Examples were definitions regarding signs and manufactured or mobile homes. Both Ms. Trow and Ms. Mansouri thought that the section should remain where it was as it noted in the table of contents. Ms. Barnes wasn't so sure. There was no vote on this topic.

Board emails:

At the last meeting the topic of emails came up. Ms. Barnes mentioned a Right to Know webinar she attended. It was presented by two lawyers, Natch Greyes and Stephen Buckley, who are with the NH Municipal Association. Attendees of the webinar were reminded that emails are government records. In a recent superior court case, the lawyers said, personal emails from a former board member were requested during the trial because they could contain board business that is pertinent to the case. The lawyers suggested it might be a good idea for boards to set up a separate email account solely for board business.

Ms. Trow said she thought the board should address the issue. Maybe there should be a Zoning Board of Adjustment email account and the members should use that to communicate. It was decided that this was area of real concern, especially if there were a court case. It was decided that Ms. Leclerc and Ms. Mansouri would go to the August 26 meeting and discuss this issue with the select board.

Adjournment:

Ms. Mansouri made a motion to adjourn the meeting. Mr. Vose seconded the motion and the motion carried.

Respectfully submitted,
Marilou Blaine
ZBA Secretary

Posted: Inside the Town Offices, on the bulletin board outside the Post Office, www.walpolenh.us.
Copied: ZBA, WPB, Town Offices, the Walpolean.

PS: The afternoon of our meeting Mr. Clifford sent me this email: Hi Marilou, Sorry for the slow reply. Your email got by me somehow. We are not planning to attend the ZBA meeting tonight. We are still trying to decide what our plan is going forward. I will get back in touch once we make some decisions. Thanks Marilou.

Jim

Next meeting September 15, 2021.

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