

**Zoning Board of Adjustment
Warner, NH
Meeting Minutes of August 12, 2009**

Members Present: Martha Thoits, Chair, Mike Holt, Eric Rodgers, Janice Loz, Rick Davies, and Alternate Gordon Nolen. (Jean Lightfoot recording)

Excused: None

Not present: Alternate Ted Young

The meeting was called to order at 7:00 p.m. The roll call was taken.

1. CASE 03-09: AREA/DIMENSIONAL VARIANCE

- a. Applicant: Brian Farmer, 360 Route 103 East, Warner, NH 03278
- b. Property Location: 360 Route 103 East, Warner, NH, Map 7, Lot 33-1, R-2 and R-3 zoning districts.
- c. Proposed Use: Change a temporary sign into a permanent sign.
- d. Variance to Zoning Article XII, Section A of the Warner Zoning Ordinance. Request Variance of area size required for a permanent sign.
 - a. Review Application – Accept/Reject/Continue
 - b. Public Hearing
 - c. Action Taken – Approve/Disapprove/Continue

Ms. Thoits recognized Brian Farmer and asked him to explain his application for variance. Mr. Farmer explained that he owns the buffalo farm on Route 103. He said they moved to town over 10 years ago. He said in 2000 or 2002, they added a temporary sign to advertise the business on Route 103. He said that they had used the temporary sign because of the restrictions on size for permanent signs and the setback of 50 feet required from a State road. He said that they had thought that a temporary sign was one that could be easily removed. However, he said, the people in the Selectmen's Office told him that he really needed to consider it a permanent sign. He said that the size requirements on the R-2 and R-3 districts for a permanent sign are limited to 4 square feet, which is not very big. He said that because it is on a State road, it must be 50 feet off the road. In addition, he said it is a 50 mile per hour zone, so it is very difficult for potential customers to see such a small sign. He said that they are in one of the few places in Warner along Route 103 where the speed limit is 50 miles per hour. He added that in the business district downtown the size of permanent signs are allowed to be much larger. He said that he has talked with some sign people and in order for someone to safely see the sign and decide to turn in the driveway, the sign should be visible from almost 600 feet away. He said that the letters would have to be 12-20 inches high to be that visible. So, he said the 4 square foot sign would be too small for those letters. He said he does not want a giant billboard. He said that people from the Fire and Police Departments have suggested that he get a bigger and better sign so people will be able to see it and not have to turn around, having missed it. He said that he had heard from the Haywoods, who are the people who would be the most affected, had called him to say that the sign needs to be a lot bigger because people are always missing the turn and having to turn around in their driveway. He asked what size sign would be appropriate and reasonable. He said he wants it to be a nice, agricultural sign that advertises that they are a buffalo farm and they are in business. He said the current size of the temporary sign is 3' x 4' and is double-sided.

Mr. Holt asked what size he was thinking of. Mr. Farmer replied that the recommendation would be 200 square feet, but he does not want it to be that large. He said he was thinking of a 4' x 8' sign. He said that that would work with the 50-foot setback requirements from the center of the road. He added that he understood that the actual measurement by the Ordinance is to include both

sides of a two-sided sign, and Ms. Thoits agreed. She asked him to read his application into the record.

He read from his application:

- A. *No diminution (decrease) in value of surrounding properties will occur. No decrease in value. Sign currently existing and is permitted as a temporary sign.*
- B. *Granting the variance will not be contrary to the public interest. Public needs to be able to locate and see the sign in time to safely slow down in a 50 MPH zone.*
- C. *Denial of the variance would impose unnecessary hardship upon the Applicant. Applicant's criteria for demonstrating hardship for an Area/Dimensional Variance are as follows:*
 - a. *An Area/Dimensional Variance is needed to enable the applicant's proposed use of the property given special conditions of the property.*

The sign regulation for permanent size is too small to safely see the sign and it would be a hardship not to be able to advertise our farm.
 - b. *The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an Area Variance.*

It will not be against the purpose of the Zoning Ordinance because it would not adversely impact the safety, health and fair value of the abutting properties.
- D. *By granting the variance, substantial justice will be done. Correct usage of the sign that is safe for the general public and helps advertise an agricultural business.*
- E. *Granting the variance will not be contrary to the spirit of the Ordinance. The spirit of the Ordinance is not to diminish the capabilities to appropriately advertise this business.*

The Board members looked at a picture of what the sign looks like now. Mr. Farmer said that right now they have added a regulation size permanent sign that shows the hours of the business. Ms. Thoits said that two permanent signs are not allowed in the Ordinance. Mr. Farmer agreed. Ms. Thoits commented that she drives by the area often and she agrees that it is difficult to see. She added that if one is traveling at the speed limit of 50 miles per hour, you cannot see the sign until you have passed it. She said if the flag were not there, the sign would not be noticeable. Mr. Holt agreed. Ms. Loz said that the color is not as bright as it could be and the text is very small. She said that the size is a good one, but it needs to have colors and text that "pop." She also said it might help to raise the sign. Mr. Farmer said that raising it higher would put it even higher above the drivers' lines of vision because it's up on a hill to start with. He agreed that contrasting colors might help the visibility. Ms. Loz said that she had no trouble seeing the flag which is about the same size as the sign. Mr. Farmer discussed the various requirements for signs in his type of area and Ms. Loz added some suggestions. The Board members discussed the size and design of the current sign. Mr. Davies asked if the sign was discussed when Mr. Farmer applied for the Special Exception. Mr. Farmer said there was not a discussion about the type of sign. He said the discussion was more about how to deal with the animals. There was a discussion about whether the Zoning Ordinance reference to size includes both sides of the sign. It was agreed that it is not clear, but it has previously been interpreted as including both sides of a sign, that is, a 4-square foot limitation means that if there is a 2-sided sign, the total square footage of each side may only be 2 square feet.

Mr. Rodgers said that he thinks that a permanent sign should be allowed, especially since just down the street, the Town has a very large sign right next to the road advertising the Bagley Fields. He suggested that a motion could be made that is very specific about what the size of the sign will include, and then it will not be left open to interpretation. Other members agreed this may be the correct approach to take.

Mr. Nolen asked how long the current temporary sign has been there. Mr. Farmer said it was first hung in about 2002. He said he has a temporary sign permit for it from the Town. Mr. Nolen asked if the current permit he has says it may be a 12 square foot sign and two-sided. Mr. Farmer said under the temporary sign allowance is for no more than 24 square feet in area. He said that he was not sure of the interpretation of the two-sided sign, so that is why he went with the 3' x 4' sign on both sides.

There was a further discussion about what is included on the sign now and suggestions on how to change it so it will still fit on the sign, but be more visible. Mr. Rodgers asked how much frontage there is on Route 103. Mr. Farmer replied it's about 500 feet for the two lots that he owns.

Mr. Rodgers asked if the Board members had any idea of a size that would work and that they would be comfortable with. He said that he didn't think that they should be telling Mr. Farmer what he should put on the sign. Ms. Loz agreed and said that the current size would be good if the design were better. Mr. Davies said that they are suggesting that the current size would be good if the sign only had less information on it than there is now. Mr. Rodgers asked Mr. Farmer how large a sign he would be considering. Mr. Farmer said approximately 4' x 8'. He said that that is what would be allowed for a business in the business district and he would like to be allowed to have that size for his business which is on a main road. He said he would make it an agricultural type of sign and it would not be a piece of plywood. Mr. Davies said it is an R-2 district and he would like to see that respected.

Mr. Davies MOVED to approve the request for variance with the sign being the same size as the existing one, 3' x 4', as a permanent sign. There was no second.

Mr. Rodgers said he would suggest 6' x 4'. Mr. Davies said he would hold his motion back because there has not been the public hearing considered yet.

Ms. Thoits said there is no public hearing because there is no public present. She then opened and closed the public hearing and resumed the meeting of the Zoning Board of Adjustment.

Mr. Davies MOVED to approve the request for a variance with the permanent sign being the existing size, which we believe to be 4' x 3', and the writing would be allowed on both sides. Ms. Loz seconded.

Ms. Thoits asked if there were any discussion. Mr. Holt said he thinks that a 4' x 6' sign would be reasonable, although not a 4' x 8'. Mr. Farmer said he would like to have all his information on one sign, although, he agreed that the content should not matter in considering the variance. Mr. Holt said that he understands that the setback has not relationship to the size of the sign. He said he also understands that the siting on a State highway also does not affect it. Mr. Rodgers said that the size of the sign is a town requirement and the setback is a State requirement. Ms. Thoits agreed. She said that she thinks the speed that the cars go on that road is a factor that should be considered a hardship for his attempts to make his sign visible. There was a discussion clarifying that he would not be allowed to have two permanent signs on the property without having a variance for that.

Mr. Holt MOVED to amend Mr. Davies' motion to change the allowed size to 4' x 6' on each side. Mr. Rodgers seconded.

There was a discussion about changing the size to actual square footage, since Mr. Davies believed that the orientation could be implied based on what number is put first in the motion. The members agreed to change the motions to square footage. Mr. Davies said that he believes that the original size is large enough if the information on the sign is kept to a minimum. Again, he said, it is an R-2 zone, and not business or commercial. There was no further discussion on the

amendment. The vote was taken on the amendment: Mr. Rodgers, yes; Mr. Davies, no; Mr. Holt, yes; Mr. Loz, no; Ms. Thoits, yes. The amendment was PASSED.

Ms. Thoits said the motion has been amended to read 24 square feet. She said that the motion needs to include why the variance is being approved. Mr. Davies MOVED to add the following to his motion: the applicant has satisfactorily answered the five questions and to change the square footage to 24 square feet from the 4' x 6'. Mr. Rodgers seconded.

Mr. Holt said that he understands that this motion will allow him to have any size up to 24 square feet on two sides of the sign. Ms. Thoits said yes. There was no further discussion. The vote was taken and the amendment was PASSED unanimously.

Ms. Thoits then called for the vote on the final motion. She said that the motion is to grant the variance for a permanent 24 square foot sign allowing that he has satisfactorily answered the five statements and the writing may be on both sides.

Mr. Davies said that he wants to clarify that the variance is for a 24 foot square piece of wood or sign that has printing on two sides. The Board members agreed.

The vote was taken. The motion was PASSED unanimously. Mr. Farmer thanked the Board and left.

2. COMMUNICATIONS

Ms. Thoits said that there has been a request for re-hearing received for the Plass subdivision which was denied on July 8, 2009. She said that the request must be considered within 30 days of receipt of the request which was August 6, 2009. The next scheduled Zoning Board meeting is September 9, which will be beyond the 30 days, so a special meeting needs to be scheduled. After some discussion, it was agreed that the special meeting will be held on Monday, August 24, at 7:00 p.m.

3. SECOND READING OF PROPOSED CHANGE TO RULES OF PROCEDURE

Ms. Thoits read the proposed change to the Rules of Procedure from the last meeting:

Add as number 3 under Officers and renumber subsequent items under Officers:

In the absence or unavailability of the Chairperson and Vice Chairperson the members present shall select a Regular Member to exercise the duties of the Chairperson.

There was a short discussion of the merits of the change. There was no further change suggested. Ms. Thoits said that this will be voted on at the next regular meeting.

4. MINUTES

Mr. Rodgers MOVED to approve the minutes of the July 8 meeting. Mr. Holt seconded. Mr. Holt said there is a correction on page 9 where the word "said" was left out between "she" and "there" in the second paragraph toward the end. The correction was made. The motion was PASSED as corrected unanimously.

5. CONSIDERATION OF ZONING ORDINANCE CHANGES DUE TO COMBINATION OF AREA AND USE VARIANCES (SB 147)

Mr. Davies said that his wording came right from the bill and suggested waiting until some other legal language comes out that might better serve the intent of the law. He said he would like to wait until October to vote on it. He said this would then have to go to the Planning Board for

approval and public hearings before it can be placed on the warrant. He also suggested that the application form be held until the actual language of the Ordinance is decided. Ms. Lightfoot suggested adding a line for the e-mail address of the applicant on the application. Ms. Loz suggested that the Zoning Board Rules of Procedure be given to applicants when they deliver the application so they will know what to expect in the meeting. The Board agreed that it was a good idea and Ms. Lightfoot agreed to do that when an application is delivered.

Mr. Rodgers MOVED to adjourn. Ms. Loz seconded. The motion was PASSED unanimously. The meeting was adjourned at 8:10 p.m.

APPROVED