

City of Keene
New Hampshire

ZONING BOARD OF ADJUSTMENT
MEETING MINUTES

Monday, August 1, 2016

6:30 PM

City Hall Committee Room

Members Present:

Louise Zerba, Chair
Joseph Hoppock, Vice Chair
Jeffrey Stevens
David Curran
Nathaniel Stout

Staff Present:

Gary L. Schneider, Plans Examiner

Members Not Present:

John Rab, Alternate
Stephen Bragdon, Alternate
Joshua Gorman, Alternate

1) Introduction of Board Members

Chair Zerba called the meeting to order at 6:30 PM and introduced the Board members.

2) Minutes of Previous Meeting

Chair Zerba suggested two corrections to the minutes of June 20, 2016. First, on page four of eight, Peter Reiner's name is misspelled and should be corrected to "Peter Ryner." Additionally, on page seven of eight the line, "Mr. Hoppock made a motion to approve ZBA application 16-24 through 16-31," should read, "Mr. Hoppock made a motion to approve ZBA applications 16-24 through 16-31."

Mr. Hoppock made a motion to accept the minutes of June 20, 2016 as amended. The motion was seconded by Mr. Stout and carried unanimously.

Mr. Hoppock made a motion to accept the minutes of July 5, 2016, which was seconded by Mr. Stevens and carried unanimously.

3) Unfinished Business

4) Hearings

- a. **ZBA 16-39:/ Petitioner, Metro Sign & Awning of 170 Lorum St., Tewksbury, MA, requests a Variance for property located at 43 Emerald St., Keene, owned by Barry J. Fox, of 50 Eastwood Road,**

Keene, which is in the Central Business District. The Petitioner requests a Variance to allow an internally illuminated sign in the Central Business District per Section 102-1312 of the Zoning Ordinance.

Mr. Stevens noted that he recused himself on this matter at the previous month's meeting. However, there was no alternate present at this meeting to fill his place. Chair Zerba asked the petitioners if they would like to continue with only four Board members. Mr. Schneider pointed out that they would still need three Board votes to have their application approved. The petitioners agreed to continue with four Board members. Mr. Stevens recused himself.

Mr. Schneider reminded the Board of the property location at the corner of Emerald Street and Wilson Street in the Central Business Zone. The site was previously occupied by a dance studio and Napa Auto Parts. The current tenants, Praxis Church, request a variance for an internally illuminated sign which, in accordance with the Sign Code, is not allowed in the Central Business Zone.

Chair Zerba recognized Adam Brodeur of Metro Sign and Awning, 170 Lorum St., Tewksbury, MA, and Justin Barney, 33 Evans Circle, Keene. Mr. Brodeur thanked the Board for allowing them to withdraw their previous application. He indicated the petitioners seek relief from the Sign Code for an internally illuminated sign in a location near other businesses with similar signs. He stated his belief that the property is far enough away from historic downtown Keene to be tasteful, add to the community, and allow great representation for the church. The church hosts many youth groups and community functions in the evening and they believe it will be helpful to have the sign.

Chair Zerba questioned if the sign meets all other requirements in the Sign Code. Mr. Brodeur replied yes, all other aspects comply. Mr. Hoppock asked if any other businesses in that zone have similar signs. Mr. Schneider replied that he cannot recall any other businesses in the Central Business Zone with internally illuminated signs. When questioned by Chair Zerba, Mr. Schneider indicated that Sanel Auto Parts, across the street from the petitioner's property, might have a similar sign. Mr. Curran asked if Napa Auto Parts had an internally illuminated sign when they occupied that location. Mr. Brodeur indicated he works with Napa Auto Parts nationally and they generally do have illuminated signs, but he is unsure about that location.

Mr. Hoppock asked the daily hours of operation of both the church and the sign. Mr. Barney replied Sunday services are generally from 9:00 AM-11:00 AM and they host functions in the evening two to three times per week which last no later than 11:00 PM. Mr. Hoppock asked Mr. Barney if they are willing to turn the sign off at 11:00 PM. Mr. Barney replied that they are willing to set a timer for 11:00 PM. Chair Zerba asked if the sign will be lit during the day, or not until dusk. Mr. Barney indicated they will illuminate the sign at dusk.

With no comments, Chair Zerba closed the public hearing.

Mr. Hoppock indicated that if the sign is turned off at 11:00 PM, which he proposed as a condition to approval, he is in support. He said the harm to the petitioner would be greater than the harm to the public. Chair Zerba stated her support for hours of operation for the sign from dusk until 11:00 PM.

Mr. Hoppock motioned to approve ZBA 16-39 provided the sign only operates between dusk and 11:00 PM daily. The motion was seconded by Mr. Stout.

Mr. Curran indicated he agrees with Mr. Hoppock, that there have been other illuminated signs in the area, and that he believes it is an aesthetically pleasing sign. Mr. Stout commented that he hopes the sign will be durable enough to withstand vandalism and that he is in support.

Chair Zerba went over the Findings of Fact.

Granting the Variance would not be contrary to the public interest: Granted 4-0.

If the Variance were granted, the spirit of the Ordinance would be observed: Granted 4-0.

Granting the Variance would do substantial justice: Granted 4-0.

If the Variance were granted, the values of the surrounding properties would not be diminished: Granted 4-0.

Unnecessary Hardship

E. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the Variance would result in unnecessary hardship because:

ix. No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property: Granted 4-0.

x. The proposed use is a reasonable one: Granted 4-0.

On a vote of 4-0, the Zoning Board of Adjustment approved ZBA 16-39 with the condition that the sign only operates between dusk and 11:00 PM daily.

Mr. Stevens returned to the Board.

- b. **ZBA 16-40: Petitioner, Derek Delaney and Margaret Metz of 206 Roxbury Street, Keene, requests a Variance for property located at 206 Roxbury Street, Keene. The Petitioner requests to allow a two-family house on a lot with 10,890 square feet where 11,000 square feet is required per Section 102-791 of the Zoning Ordinance.**

Chair Zerba introduced the petition and indicated the petition should read “Table 102-791” not “Section 102-791” of the Zoning Ordinance. She also indicated this property is located in the High Density Zone.

Mr. Schneider explained the location of the property, at the corner of Beech Street and Roxbury Street, to the Board. The property used to be the law office of William Cleary. Mr. Hoppock asked if there were more details on the historic use of the house. Mr. Schneider indicated that he grew up in a neighboring home and that it used to be a two-family home with the first and second floors as individual apartments. Mr. Cleary received approval from the ZBA to convert it to a law office. He indicated that this application is for a variance for a two-family house. The Zoning Ordinance in that district requires 11,000 square feet for a two-family home; this property is 110 feet short of that. If this variance is approved, the office variance is moot.

Chair Zerba recognized Derek Delaney, 303 Jordan Road, Keene. Mr. Delaney indicated they seek a variance to convert the home back to its original use as a two-family home. They intend to make various improvements to the home. The petitioners intend to live in one unit and rent the other. He believes they are short only a small percentage of square feet and based on its previous use, he hopes the Board will approve the application. He indicated there is plenty of parking because it used to be an office space. He does not believe use as a two-family home will decrease the value of surrounding properties; on the contrary, he believes it could enhance surrounding property value as they make improvements.

Mr. Curran asked if they intend to remove any pavement from the existing parking lot. Mr. Delaney replied he does not believe so. He said although it is large and could possibly fit 10-12 vehicles, it will comfortably accommodate five to six vehicles for the tenants. Mr. Hoppock asked Mr. Schneider how much parking is required for a two-family home. Mr. Schneider replied four spaces. Mr. Curran clarified that the property will be owner-occupied. Mr. Delaney replied yes.

With no comments, Chair Zerba closed the public hearing.

Mr. Stout commented that 110 feet is too small an amount to deny the variance. Mr. Hoppock agreed and added that it makes sense to return the original use as a two-family home in a neighborhood with similar homes. He said he would rather see it used than remain a vacant office space. If the owners improve the home, it will improve the value of the neighborhood.

Mr. Hoppock motioned to approve ZBA 16-40, which was seconded by Mr. Stout.

Chair Zerba stated her support for approval because of the neighborhood and because the owners will likely improve the property condition. Chair Zerba went over the Finding of Fact.

Granting the Variance would not be contrary to the public interest: Granted 5-0.

If the Variance were granted, the spirit of the Ordinance would be observed: Granted 5-0.

Granting the Variance would do substantial justice: Granted 5-0.

If the Variance were granted, the values of the surrounding properties would not be diminished: Granted 5-0.

Unnecessary Hardship

E. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the Variance would result in unnecessary hardship because:

ix. No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property: Granted 5-0.

x. The proposed use is a reasonable one: Granted 5-0.

On a vote of 5-0, the Zoning Board of Adjustment approved ZBA 16-40.

- 5) New Business**
- 6) Communications and Miscellaneous:**
- 7) Non Public Session: (if required)**
- 8) Adjournment**

Hearing no further business, Chair Zerba adjourned the meeting at 6:55 PM.

Respectfully submitted by,
Katie Kibler, Minute Taker