

Zoning Board of Adjustment Meeting

June 19, 2019

Members present: Rick Ferreira, Chairman, Susan Arnold, Charles Burnham, Jean Chartrand Ewen, Herman Groth, and Ashley Rowe Alternate member.

The Board met at a site review for Case Number #414, Isinglass Country Store at 6:30 PM; the Board was joined by Scott Clark, an abutter. Board members tried to locate property boundaries and investigated the existing sign pole, taking approximate measures. The public hearing was called to order at 7:15 PM by the Chairman. Notices for tonight's meeting were posted at the Strafford Post Office and at the Strafford Town Hall. Notice was published in Foster's Daily Democrat on or before June 10, 2019. There were no abutters present at the start of the meeting and none arrived later during discussion.

Continuation of Case Number #412

Petitioner: Jessica Arneil is requesting a Special Exception under Article 1.4.1K of the Zoning and Land Use Ordinances in order to allow the construction of an approximately 750 square foot, two-bedroom, one-story Accessory Dwelling Unit on the front end of the existing home. The existing home and proposed addition meet all setback requirements and the ADU will meet the required criteria under Article 1.4.1K. (36 Beaver Road, Tax Map 37, Lot 76, Owners: Jessica and Eric Arneil)

There was nobody present for this item; discussion was automatically continued forward.

Case Number #414

Petitioner: Three Shining Stars Corp. d/b/a Isinglass Country Store is requesting a Variance to Article 1.3.12 II, Paragraph C and a Special Exception under Article 1.3.8, Paragraph 4, of the Zoning and Land Use Ordinances in order to allow the placement of new interior lighted gas price signs to be placed in the same location as the existing gas price signs. Gas signs would be up to 7.05 square feet and the diesel gas price sign would be up to 8.65 square feet, which is larger than the six square feet allowed under current ordinances. The signs are LED lit at 1500 MCD and are intended to be visible in daylight. (Owner: NAJMA LLC, Francis Ali, Agent, 410 Roller Coaster Road, Tax Map 37, Lot 1)

Francis Ali, petitioner, was present accompanied by Donald Coker, who assisted with the presentation.

Board members introduced themselves to the applicant. Donald Coker stepped forward to present the application on behalf of Mr. Ali and his family. Mr. Coker said that the Ali family had purchased the store about 8 years ago, and that they are trying to upgrade and modernize little by little. The current gas price sign is in poor repair and similar flip-number replacement signs are difficult to find. They would like to replace the sign with two LED-based signs. They said that there is no question that the signs would be larger than allowed under the ordinances. The LEDs would be controlled by a computer so that they can be kept up to date. The issue that came up in preparing the application is the location of the road ROW, which the state has identified as 25 feet from the center line. The existing light/sign pole is 33 feet from the yellow lines on the pavement. They feel that all the abutters do not object; the applicants then submitted a letter from Craig Walfield, the abutter across the road. Francis Ali has spoken to other neighbors and believes that there is no opposition. The signs would be turned off when the store is closed, and the LEDs do not require much electricity, and each light is not terribly bright. They want the new modern sign because it will look better, they believe.

Rick Ferreira, the Chairman, noted that the Board had initially been told that they could not source the flip-number signs, but noted that he could find a website selling the signs with just a few minutes of searching. He noted that the flip-number signs available online also would meet the town's size requirements, so would not require a Special Exception. He said that he is curious why the store needs such a grand sign. Francis Ali addressed the Board and said that it would be better in the long term to switch to the electronic

signs now because the flip signs deteriorate—they installed a flip sign at another store and it breaks easily when in use. So, they feel it will be better in the long term to go with the electronic sign. Donald Coker suggested that the electronic sign is more modern so would look better. Ashley Rowe said that the problem is that qualifying for a variance requires that you show hardship. Rick Ferreira noted that they could go with the flip-number signs and would not need a variance. Donald Coker said that the maintenance required for the flip sign might be a hardship. Herman Groth said that given the pace of change, the lighting ordinance might need updating, and noted that gas is for sale 24/7 these days, with computerized gas pumps. Charles Burnham said that there is no doubt that many gas stations are going to the LED signs and that it is a hardship that the flip signs will not be available much longer. Herman Groth suggested that having a gas station in town is a community service.

Discussion then turned to the lighting and colors. Francis Ali said that the gas sign would be red LEDs and the diesel sign would be green LEDs. Ashley Rowe noted that the colors would be less distracting than white LEDs. Susan Arnold asked if the intent was to put the signs on the existing pole. The applicants said yes. Susan Arnold asked the applicants to address the question of how a gas station fits the hardship criterion. Mr. Ali said that they are trying to upgrade the facility because they feel that they are losing business from outsiders because it looks run down. Jean Ewen asked if the proposed signs are the smallest size available. Mr. Ali said that they have been told that 10 inch numbers are available, but that they reduce visibility. Mr. Rowe asked about the proposed sight distance, and Mr. Ali did not know. Charles Burnham asked if most, 90%, of the store's customers were Strafford residents, and Mr. Ali said yes. Rick Ferreira asked how many signs are being proposed, and where they would be located. Mr. Ali said that there is just one sign for gas and one for diesel, so they need to hang off the side of the pole. They would be mounted on the ROW side of the pole he said, for safety and visibility. Board members agreed that this is an issue, because it narrows the distance between the sign and the road ROW. Ashley Rowe advised that during the site review earlier, everyone had assumed that the signs would be centered on the pole, but that if the sign is toward the ROW, the only way to be sure that they are not encroaching on the state Route 202A ROW is to have a survey of the ROW location. There followed a lengthy discussion of the ROW and sign issue, with Board members agreeing that the sign cannot encroach on the state ROW and so the location of the ROW must be determined. Ashley Rowe said that he does feel that there is something special about the property because it is the only gas station in town, and the old signs are hard to find, but said that he is still concerned about the light and the ROW location. Susan Arnold asked if the words "gas" and "diesel" are in white light or painted. Mr. Ali said that he believes that they are painted. Discussion of other possible locations for the sign continued, with Board members suggesting the central pole between the pumps, which all finally agreed would not be safe. Visibility from the road was also discussed. Mr. Ali said that he wants to keep the existing pole with the Isinglass Country Store sign at the top, so he wants to put the gas price signs below that. Discussion turned to whether it would be possible to relocate/replace the pole to get it high enough. Board members then turned to the State of NH driveway permit for the store. Susan Arnold noted that aesthetics are important, and suggested that the applicants could re-establish the island between the two driveway entrances, as was shown on the original permit.

Board members then returned to the application. They asked if both signs could be the same size, as the application suggests that the diesel sign would be larger. Board members agreed that they would like to see the specs for the 10 inch numbers; saying that if the 10 inch numbers are visible for 400 feet, they would be more than adequate for the store. Rough calculations also suggest that 10 inch numbers would reduce the total sign sizes to below the 6 square foot requirement, so no Special Exception would be required. Board members asked about the size of the cabinet housing the numbers; it was agreed that it was unclear, but that it would be smaller and it seems as if it would fall below the 6 square feet. Mr. Ali agreed that the 10 inch numbers would work, and it was generally agreed that you do not have the sight distance for larger numbers in that location. Board members then turned to the variance worksheet regarding the request for an internally lit, colored, sign. Board members suggested some possible responses to the criteria on the decision worksheet. 1) The lighting would not be contrary to the public interest because they are upgrading and improving the sign. 2) As regards spirit and intent, Ashley Rowe suggested that the proposed internal lights would meet the dark skies criteria because there would be no up light and no spillover light to adjacent properties, and the proposed colors are less intense than white LEDs. The lights would turn off at closing, which is 9PM in the summer and 8PM in the winter. 3) Substantial justice would be improving the appearance of the business. 4) Upgrading the appearance of the business would be

an upgrade to property values rather than a diminution. 5) Hardship: a) there is only one gas station in town, so having gas available provides a public service, and b) they are improving the existing signage and the gas station supports agricultural/residential use by providing both diesel and regular gas. Board members then suggested a number of possible conditions of approval, including that the lights must be green and red, with no white LED illumination, numbers should be limited to 10 inches, any additional lighting for the sign must conform to the ordinance (downcast indirect white light), and mounted signs must not encroach on the state NH DOT ROW. Ashley Rowe advised that the only way to be sure that the sign will not encroach on the state ROW is to have a surveyor locate the ROW on the ground. It was agreed that the pavement is not a true indication of the location of the ROW. He noted that ROW issues must be addressed with the state DOT office in Concord, as the District Six office does not handle this question. Susan Arnold noted that DOT records are difficult to work with based on her experience with state ROW questions in the northern part of the state, but agreed that it is very important to be sure that the sign is located out of the ROW.

Board members agreed to continue discussion of this application to the next regular meeting. After considering the calendar, it was agreed to set a tentative date of July 17th for the next meeting, depending on whether the applicants have received any new information.

There being no further business before the Board, a motion to adjourn was made and seconded. There was no further discussion, and the vote was unanimous in the affirmative. The meeting adjourned at 8:45 PM.