

Members Present: Chairman; Richard Quindley; Vice-Chairman Marcella Perry; Charles Westen; Lyndon Avery; Keith Chamberlain; Alternate-Timothy Kinnon, Pat Fuller, Selectman's Representative .

Others Present: Planner, Kathy Menici; Secretary, Nancy Pritchard and others as identified below.

**Call to order:** Chairman R. Quindley called the meeting to order at 7 p.m. He introduced the members of the Board and Planner.

It was decided to wait until the next board meeting to approve the minutes when the regular secretary was present.

R. Quindley read into the record the purpose of the hearings and stated the rules of procedure.

**Approval of Agenda:**

K. Menici discussed the changes to the order of the agenda. She informed the Board that Mr. Brant is withdrawing his application at this time.

K. Menici also informed the Board that the applicant for Case#ZO5-13 has requested a continuance until the June 2, 2005 meeting.

**Motion made by K. Chamberlain, seconded by M. Perry to continue Case #ZO5-13 until June 2, 2005 at 7p.m. Motion carried with all in favor.**

**Motion made by and seconded by to amend the agenda to note the changes, motion carried with all in favor.**

**NEW APPLICATIONS FOR PUBLIC HEARINGS:**

K. Menici announced the first case as follows:

**Case #Z05-11**

**Map 26, Lot 9**

**Area Variance**

**Aubuchon Hardware**

**7 Main Street**

Application submitted by Barlow Signs on behalf of the property owner Aubuchon Realty Company, Inc for a request for a Variance from Zoning Ordinance Article 200, Section 240, E. Sign Regulations, each sign not to exceed twenty-four (24) square feet. Applicant is requesting to install a thirty (30) square foot wall sign. The property is located at 7 Main Street in the Residential Commercial Zone.

K. Menici gave her report and said the applicant has requested a variance to allow the installation of two wall signs that exceed the Town's size limitation. The Zoning Ordinance limits the permitted size of commercial signs to 24 sq. ft. The Zoning Ordinance allows two commercial signs, no larger than 24 sq. ft. each, on a lot. There will be a total of four signs on this property: three wall-mounted signs and one free-standing sign. The number of signs on this parcel is grandfathered. Three of the proposed signs exceed the town's size limitation. The applicant has applied for and received a sign permit for one of the four signs. This sign has been installed. However, during the site inspection, staff noted that one of the signs that are the subject of this application has been installed on the building without a permit. In addition, a temporary sign has been installed at the location of the second sign that is part of this application. No permit was applied for or issued for the temporary sign. The signs that are the subject of this application are

two wall-mounted signs of 30 sq. ft. each. The total square footage of the proposed signage on this lot is approximately 145.73 sq. ft.; the Zoning Ordinance allows 48 sq. ft.

K. Menici stated that Attorney Sessler advised that both cases could be heard together. We can decide to accept one or both. If we agree one sign can be larger than the other one, we can make that as part of our motion.

**Motion made by Keith Chamberlain that we combine Z05-11 and Z0512 and referencing Section 240E, 16 sq. ft. should be changed to 24 sq. ft. The motion was seconded and carried.**

K. Chamberlain said for clarification, the signs the K. Menici was talking about were taken down by Aubuchon and replaced with bigger signs that are not within ordinance requirements and they were installed without having a permit from the Town of Alton.

K. Menici said they did not get the required permits for the temporary signs and they have a permit approved for the sign on the gable end of the building but it is not installed yet and it is 24SF.

C. Westen asked for clarification if the two signs that were grandfathered were 24SF combined in size if that meant that Aubuchon is taking all the square footage (24SF) and using it on one sign and K. Menici said that is correct.

The Board discussed the grandfather status of the wall signs and that the previous owner was allowed an additional sign by the Building Inspector because the combination of the additional sign and the existing one did not exceed 24SF. K. Menici said the locations of the two signs were on the gable end and on the wall of the building facing Main Street, those were the signs allowed because the combination of the two of them did not exceed the ordinance requirements.

Discussion about there being 4 grandfathered signs on the building when it was Ace Hardware.

K. Chamberlain asked D. Reed if the sign that faces the road will be 6' larger than what the ordinance allows and D. Reed said yes and that there are no signs proposed for the gable and D. Reed said not at this time.

K. Menici said they have an approved permit for a 24SF sign to be located on the gable end of the building so in addition to that sign they are looking for 30SF more of sign to be located on the Main Street side of the building.

R. Quindley asked if the approved permit could be rescinded and K. Menici said only the Code Officer could rescind a permit.

K. Menici said the request is for additional signage, in excess of what the ordinance allows to be located on the Main St. side of the building.

R. Quindley said it is not only an application for an oversized sign it is also for additional signs.

K. Menici said that is correct.

K. Chamberlain asked if that could have been caught prior to the hearing M. Perry said sometimes that happens. K. Chamberlain said there were 4 grandfathered signs located on the building and how many more are in front of the Board now.

K. Menici said 2, one wall sign on the Main St side of the building and one freestanding sign and both are larger than what is permitted in the zoning ordinance.

R. Quindley said they are being asked to increase the size of the sign that is grandfathered.

K. Menici said that is correct.

The applicant said they need the extra 6SF in order to increase visibility and he spoke about the size of the lettering and how it is difficult to advertise they have rental equipment. He said because of the amount of traffic that goes around the Circle and Aubuchon wants to take advantage of that and increase their visibility.

K. Chamberlain wants to know how far away the building is from the traveled way and D. Reed said it is about 50 feet.

K. Chamberlain asked if the signs would be internally lit and D. Reed said the wall sign will not be and there are no plans to light that sign at this time.

C. Westen asked if the grandfathered signs were the 3 signs not exceeding 48 SF and one freestanding and K. Menici said yes, the previous owner had a sign over the door and the 2 small wall signs, she does not know what the previous sign size was over the door, but the 2 small wall signs did not exceed 24SF.

L. Avery spoke about the approved sign at the gable end of the building and one over the entrance door and the freestanding sign they will still have 4 a total of signs and D. Reed said that is correct.

The Board discussed the existing signs on the building and the 3 grandfathered signs and the amount of sign allowed was 48 SF and now the applicants are asking for 3 signs on the building for 78SF total. K. Menici said that is correct.

K. Chamberlain spoke about the applicant knowing the regulations and that the existing signs are grandfathered and are already in excess of the ordinance and if there is a need for 4 signs on the building. D. Reed said that Aubuchon feels that because of the location of the business, the access to the Rotary and the traffic, that is important to have a professional looking sign design on the building that is easy to read, especially at night time and busy traffic times.

The applicant discussed the freestanding sign and it will be internally illuminated. The applicant said they want to have it on until 10:00pm and they do not want anything less than that, at a minimum at dusk.

The Board discussed the Hannaford sign being internally illuminated based on the hours of operation at night. The Aubuchon hours will be 7:30am-6pm M-F and 7:30-5:30pm Saturday. K. Chamberlain asked the applicant if they have a problem controlling the termination of the lighting for the sign at 10:00pm. M. Perry said or for the hours of operation like they did on the Hannaford sign. K. Chamberlain said 6:30pm may not be reasonable.

D. Reed said it is important for the sign to be able to identify the business when the store is not open and wouldn't mind agreeing to have the sign lit until 10:00pm.

M. Perry spoke about Hannaford sign being on lit based on the hours of operation and she thinks this application should conform to the same guidelines based on Aubuchon's hours.

R. Quindley said their hours of operation are not as long as Hannaford.

M. Perry said that Aubuchon is in a highly visible area and K. Chamberlain spoke about the Traffic Circle Store and their lit signs and M. Perry said their lights are on during the hours of operation and then they are shut off.

The Board discussed the need for the Variance request and Don Reed presented the Variance request as follows:

*Point #1.*

*Item A. The zoning restriction as it applies to the property interferes with the reasonable use of the property considering the unique setting of the property in its environment.*

- The unnecessary hardship is that because of this building's relationship to the traffic circle that the zoning ordinance requiring us a 24 sq. ft. sign in our opinion, is not sufficient to let those people know on the traffic circle what the business is so they can recognize the business clearly, and therefore we are asking relief in that regard.

*Item B. No fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction of the property.*

- It is essentially the same argument. If the zoning ordinance is specifically applied here, it would again impose a hardship for the same argument.

*Item C. The variance would not injure others.*

- Clearly, it is a commercial area. It is not as if any of these signs would be harmful in any way. In fact they would be in the public interest to provide information in locating this business.

*Point #2. The specific request is a minimum variance that will grant relief to the owner and is necessary for such reasonable use.*

- We are asking in the issue of the free standing sign for an additional 21sq. ft. We feel that a 24 sq. ft. sign would get us back to what you see if you look at the pictures and compare them. On one hand you have a sign that clearly identifies the business, is a viable sign, easy to read, provides good information. The other sign letters are too small. I think that Aubuchon needs to have better visibility than what would be provided by a 24 sq. ft. sign.

*Point #3. The spirit of the ordinance.*

- We don't believe that it violates any of the spirit of the ordinance because it is not any of those items that I read. Therefore, I think that it would be in the spirit of the ordinance to grant these signs because they would not be distracting, they wouldn't clutter, and they wouldn't impair any views of natural elements in the area.

*Point #4. Would it be in a public interest?*

- This is not contrary to the public interest because these signs will assist the public in finding this. An important aspect to consider is there is a lot of transient traffic coming through Alton, especially in this traffic circle, that is certainly outside of what you have down here in the village, and I think it would be in a public interest to let people know that there is a place over there they can get rentals, buy a ladder, propane for their camper, etc.

*Point #5. The request will not diminish the value of surrounding properties.*

- I think if anything that the addition of these signs would enhance the area. It would not add any clutter. The area is a commercial area as it is, and I think that it would not diminish the surrounding property values.

R. Quindley opened up the hearing for anyone to speak regarding in favor of the application.

Steve Gasco, Manager of Aubuchon Hardware spoke in favor of the application and he said there are a lot of drivers that are confused with the traffic pattern and it is very busy and they want to make sure their signs are visible .

R. Quindley opened up the hearing for anyone to speak against the application, there being none he closed that portion of the hearing.

R. Quindley closed the Public Input portion of the hearing and the Board went into deliberations and he said they are going to consider both applications in the discussion.

**Board Discussion:** After reviewing the petition and after hearing all of the evidence and by taking into consideration the personal knowledge of the property in question, The Alton New Hampshire Zoning Board of Adjustment has determined as follows:  
The Board decided to deliberate on Case#ZO5-11 first the wall sign request.

Public Interest:

The variance **will not** be contrary to the public interest.

**Reason:** R. Quindley said there **will not** be any harm to the public interest by adding 6 sq. ft. and L. Avery agreed. C. Westen said he disagrees because the amount of square footage has already been used up on the gable end sign and it would be adding an additional 30SF to the building. M. Perry agrees with C. Westen because the location of the building is very accessible to the public, it is within 50' of the road and she thinks additional signage is in excess. K. Chamberlain agrees because it will be excessive signage and that the 24SF wall sign is adequate and the property is grandfathered for 4 signs and adding 30 sq. ft will make it excessive and it goes against the zoning ordinance. L. Avery spoke about sections of the roadway around the building are much farther away than 50' that M. Perry spoke about and he said the sign should be bigger based on the fact that some sections of the road are 200' feet away from the business. M. Perry said it is obvious that there is a business there, the business has been successful, Aubuchon is a well recognized name and she thinks that the larger sign is excessive. C. Westen agrees with M. Perry and since they have a permit for the gable end with a 24SF sign the one on the front should be adequate along with the freestanding sign.

Spirit of the Ordinance:

The request **is** in harmony with the spirit of the Zoning Ordinance, the intent of the Master Plan and with the convenience, health, safety, character of the district within which it is proposed.

**Reason:** R. Quindley said the request is in harmony with the Zoning Ordinance and it is a reasonable request. C. Westen disagrees and said it is not within the intent of the Master Plan and the zoning ordinance states that they can have 2 signs at 24SF and this property has 4 signs. L. Avery said it is in harmony with the zoning ordinance and it is for visibility. He said the store across the street has large signs and they are higher and illuminated and that should be good enough for this application also. M. Perry disagrees and the request is not in harmony because with other businesses they have held to smaller signs in the same area. K. Chamberlain also believes it is not within the intent of the Master Plan or in harmony with the Zoning Ordinance. He said in the testimony they said it was 50' to the road and people can drive around the circle and have enough visibility and he said the

business is utilized more by local people and not transit visitors. R. Quindley disagrees and said from the circle it is more than 50' from the business.

Substantial Justice:

By granting the variance substantial justice will be done.

**Reason:** R. Quindley said substantial justice will be done. L. Avery agrees with R. Quindley and said substantial justice will be done based on site visibility and distance. C. Westen does not believe substantial justice will be done because the request is against the zoning ordinance and the intent of the Master Plan. M. Perry said substantial justice will not be done by granting the variance because it will be excessive for the Town of Alton, it goes against the character of the Town of Alton. K. Chamberlain agrees with M. Perry and said they have adequate signage now and it is excessive due to the grandfathered signs.

Value of Surrounding Properties – The request will not diminish the value of surrounding properties.

**Reason:** R. Quindley said it will not diminish the value of surrounding properties because most of the surrounding properties already have signs that are as big or bigger. L. Avery and C. Westen agree with R. Quindley. M. Perry and K. Chamberlain also agree with R. Quindley.

R. Quindley read the following statement into the record:

Hardship-Boccia-Area Variance Request Criteria

- (1) An area variance is/not needed to enable applicant's full use of the property given the special conditions of the property.
- (2) The benefit sought by the applicant can/cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.

**Board Discussion and Reasons:** R. Quindley said an area variance is needed and the benefit cannot be achieved by another method because of where the sign is on the property and the distance from the circle, so people can see it L. Avery agrees. C. Westen said the variance is not needed because there is enough visibility from the existing signs on the building. M. Perry said an area variance is not needed because of the existing signage and there are no obstructions in the way of the signs and she said the benefit sought by the applicant is already achieved due to the existing number of signs. K. Chamberlain said the area variance is not needed because the request goes against the zoning ordinance and he believes 24SF of sign is adequate, there are no obstructions in the way of the signs and it is close to the highway for visibility and he said the benefit sought by the applicant can be achieved by having them comply with the zoning ordinance.

Motion made by K. Chamberlain, seconded by C. Westen that the ZBA deny the application for Case#Z05-11 Aubuchon Hardware, Map 26, Lot 9 Area Variance, in light of the findings of fact for the wall sign. Motion carried by 3-2. K. Chamberlain, M. Perry and C. Westen voted for the motion and L. Avery and R. Quindley voted against the motion.

R. Quindley announced the Board will begin deliberations on Case #Z05-12, the application for the Area Variance request for the freestanding sign.

After reviewing the petition and after hearing all of the evidence and by taking into consideration the personal knowledge of the property in question, The Alton New Hampshire Zoning Board of Adjustment has determined as follows:

Public Interest - The variance **will not** be contrary to the public interest.

**Reason:** R. Quindley said the scaled down version of the freestanding sign and how it is set back off the road **will not** be contrary to the public interest. C. Westen said it **will not** be contrary to the public interest because the size proposed for the freestanding sign would provide better visibility than the existing sign. L. Avery agrees with C. Westen. M. Perry said it **will not** be contrary to the public interest because the sign will be further back from where the existing sign is located. K. Chamberlain said it **will not** be contrary to the public interest on the freestanding sign because the additional sign area will allow the applicant to advertise their business and supplies and he thinks that is important to the business. He does not feel that "Aubuchon Hardware" needs to be advertised any further on the building but the freestanding sign request is reasonable.

Spirit of the Ordinance- The request **is** in harmony with the spirit of the Zoning Ordinance, the intent of the Master Plan and with the convenience, health, safety, character of the district within which it is proposed.

**Reason:** R. Quindley said the request **is** in harmony with the spirit of the Zoning Ordinance, the intent of the Master Plan and with the convenience, health, safety, character of the district within which it is proposed because it is located in a district where there are all businesses and the request is reasonable. C. Westen agrees and said for a safety issue the sign is being set back and the additional size is required for safe visibility of a sign with a reader board. L. Avery agrees and said for safety issues a bigger sign is better. M. Perry agrees and said it **is** in harmony because the location of the sign will be safer because it is further away from the road. K. Chamberlain agrees and said it **is** in harmony because the sign being it will have better visibility and possibly prevent confusion on the road with people trying to figure out what kind of business it is.

By granting the variance, substantial justice **will** be done.

**Reason:** R. Quindley said by granting the variance substantial justice **will** be done because the applicants will have more visibility for their business. C. Westen said substantial justice **will** be done because the sign will be set back further and the additional sign size will be justified. L. Avery said substantial justice **will** be done because the larger size will allow the business to advertise more easily. M. Perry said by granting the variance substantial justice **will** be done because the sign will be set back further from the road and it is higher for better visibility from a distance and around the traffic circle. K. Chamberlain said substantial justice **will** be done because the reader board in the freestanding sign is important to the profitability of the business and the visibility is also important in identifying this business, especially on fast moving traffic through the traffic circle.

Value of Surrounding Properties - The request **will not** diminish the value of the surrounding properties.

**Reason:** R. Quindley said the request **will not** diminish the value of the surrounding properties because the area is mostly all businesses and he does not see how increasing the size of that sign will not diminish the value of surrounding properties. C. Westen, L. Avery, M. Perry and K. Chamberlain all agreed that it will not diminish the value of the surrounding properties based on the existing commercial properties in the area.

R. Quindley read the following statements into the record:

Hardship- Boccia- Area Variance Request Criteria

(1) An area variance **is** needed to enable the applicant's proposed use of the property given the special conditions of the property.

**Board Discussion and Reasons:** R. Quindley said an area variance **is** needed to enable the applicant's proposed use of the property given the special conditions of the property because additional visibility is needed where this building is located. C. Westen and L. Avery agreed. M. Perry said the area variance **is** needed because the size of the sign is needed for visibility. K. Chamberlain agreed that an area variance **is** needed to enable the applicant's proposed use of the property given the special conditions of the property because the larger sign will provide additional business recognition in a heavy traffic area.

(2) 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.

**Board Discussion and Reasons:** R. Quindley said 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 because he does not know of any reasonable feasible method the applicant can pursue other than the an area variance. C. Westen agreed and said there is no other way to achieve that for this particular freestanding sign. L. Avery and M. Perry agreed. K. Chamberlain agreed and said the sign will be a two fold sign. He said the top is illuminated which has a specific purposes and the lower sign is not illuminated which is the reader board sign and without the size increase, you wouldn't be able to see that lower sign and one or other of the signs would suffer.

R. Quindley read the following statement into the record:

(3) Based on the above analysis, special conditions **do not** exist such that the literal enforcement of the Zoning Ordinance results in unnecessary hardship.

R. Quindley called for a motion.

**Motion made by K. Chamberlain, seconded by R. Quindley to approve Case #Z05-12 for Aubuchon Hardware, Map 26, Lot 9 for an area variance in light of the finding of facts and also that a condition should be placed on the business that the lighting not exceed 10 p.m. and that the lights should be shut off on any illuminated signs associated with this business and on this property.**

**Board discussion on the motion:** K. Chamberlain spoke about the condition for hours of illumination for the sign. He said the neighboring business' signs are illuminated during their hours of operation. He said Aubuchon closes at 6:30 pm and by allowing the sign to be illuminated past the earlier hours of operation will assist the visibility and profitability

of the business. R. Quindley agreed and thinks it would be unreasonable in this case to tie the illuminated sign to Aubuchon's hours of operation during certain daylight times of the year is unreasonable. K. Chamberlain wants to confirm his first motion will include the condition for the time of night to turn off the lights on the sign because if the lighting is not limited, the applicant will leave the lights on all night and the Board should use common sense and consider that issue when considering his motion as the correct motion.

M. Perry disagrees and said the illumination of the sign should be based on the hours of operation. L. Avery said the Circle Store is allowed to keep their lights on until 10pm and Hannaford's to 11pm and if the lighting of the sign is based only on hours of operation than it is unfair to the hardware store based on the different type of retail hours of operation. C. Westen agrees with the 10pm lighting deadline. He agrees with the hours of operation as a guideline for the signs to be illuminated but sees how it could be unfair for this applicant because they close earlier and he thinks 10 pm is long enough.

M. Perry said that the Circle Store closes at 9pm in the winter time and the lights are turned off at 9pm and she said so the lighting is tied into the hours of operation.

**R. Quindley called for the vote on the motion and the motion is carried with a vote of 4-1, with M. Perry voting against the motion.**

There was a five minute break at 8:25 p.m.

R. Quindley recused himself from Case#ZO5-14, Case#ZO5-15 and Case#ZO5-16, due to the fact that he was not present for the March 3, 2005 meeting when the cases were first presented and he stated for the record that he recused himself from the April 7, 2005 meeting when the Board deliberated and acted upon the applications. He designated M. Perry to preside as Chairman for Case#ZO5-14, Case#Z15-05 and Case#ZO5-16.

M. Perry took over as Chair and appointed Alternate T. Kinnon to replace the absence of R. Quindley.

**Case#ZO5-14**

**Map 53, Lot 3**

**Motion for a Rehearing**

**Robert Gayner Trustee**

**62 Temple Drive**

Application submitted by Walker & Varney P.C. on behalf of property owner Robert Gayner Trustee for a Rehearing on Case#ZO4-23 regarding the April 7, 2005 ZBA decision upholding the Cease & Desist Order issued by the Town of Alton Building and Code Officer on September 28, 2004. The property is located at 62 Temple Drive in the: Lakeshore Residential Zone, the Town of Alton Shoreland Protection Overlay District and the State of New Hampshire's Shoreland Protection District.

**Motion made by M. Perry and seconded by C. Westen for the Alton Zoning Board of Adjustment to grant applicant's request as submitted for a re-hearing of Case #Z04-23 on May 23 at 7 p.m. at Alton Town Hall submitted as Case#ZO5-14. Motion carried with all in favor.**

**Case#ZO5-15**

**Map 53, Lot 3**

**Motion for a Rehearing**

**Robert Gayner Trustee**

**62 Temple Drive**

Application submitted by Walker & Varney P.C. on behalf of property owner Robert Gayner

Trustee for a Rehearing on Case#ZO5-05 regarding the April 7, 2005 ZBA decision denying the property owners request for an Equitable Waiver from Dimensional Requirements in order to maintain the height of a boathouse in excess of 15' as required by the Alton Zoning Ordinance Article 200, Section 228A, height restrictions for boathouses. The property is located at 62 Temple Drive in the: Lakeshore Residential Zone, the Town of Alton Shoreland Protection Overlay District and the State of New Hampshire's Shoreland Protection District.

**Motion made by M. Perry and seconded by C. Westen for the Alton Zoning Board of Adjustment to grant the applicant's request for a re-hearing on Case #ZO5-05 on Monday, May 23, at 7 p.m. at Alton Town Hall, submitted as Case #ZO5-15. Motion carried with all in favor.**

**Case #ZO5-16**

**Map 53, Lot 3**

**Motion for a Rehearing**

**Robert Gayner Trustee**

**62 Temple Drive**

Application submitted by Walker & Varney P.C. on behalf of the property owner Robert Gayner Trustee for a rehearing on Case#ZO5-06 regarding the April 7, 2005 ZBA decision denying the property owner's request for a Variance from Dimensional Requirements in order allow the height of a boathouse in excess of 15' as required by the Alton Zoning Ordinance Article 200, Section 228A height restrictions for boathouses. The property is located at 62 Temple Drive in the: Lakeshore Residential Zone, the Town of Alton Shoreland Protection Overlay District and State of New Hampshire's Shoreland Protection District.

**Motion made by M. Perry, seconded by C. Westen for the Alton Zoning Board of Adjustment to grant the applicant's request for a re-hearing on Case#ZO5-06 on Monday, May 23 at 7 p.m., submitted as Case #ZO5-16. Motion carried with all in favor.**

**OTHER BUSINESS:**

It was decided to have a **work session Thursday, June 2 at 6 p.m.** to review the application format. In addition, the board will discuss submission requirements and K. Menici will prepare and get to the members before the meeting a summary of three or four cases in particular, making a list of what the applicant originally provided and comments the board had about that submission so more direction can be given to applicants on what they need to provide given the nature of the case. E-mail reminders should be sent out.

**Motion made by M. Perry and seconded by L. Avery to adjourn at 9:05 pm, motion carried with all in favor.**

Respectfully submitted,

Nancy Pritchard, Secretary Pro-Tem

Edited by Stephanie N. Verdile, Secretary