

**Town of Northwood
Zoning Board of Adjustment Meeting
November 28, 2022**

Case heard at this meeting:

Case 22-18: Brian Gardner

6:30 Call to Order

PRESENT: Vice-Chair Pam Sanderson, Ted Wilkinson, Ginger Dole, Robin Guzofski (alternate), and Betsy Colburn (participating electronically).

Ms. Colburn's reason for not being at the meeting in person is medical.

VOTING DESIGNATION: Vice-Chair Pam Sanderson, Ted Wilkinson, Ginger Dole, Betsy Colburn, and Robin Guzofski.

TOWN STAFF PRESENT:

Land Use Specialist Linda Smith, and Land Use Administrative Assistant Lisa Fellows-Weaver.

MINUTES: October 24, 2022

On a motion made by Ms. Dole, and seconded by Mr. Wilkinson, the Board voted by a roll call vote, to approve the minutes of October 24, 2022, as written. Motion passed; 4/0/1. Ms. Guzofski abstained due to unattendance.

NEW CASE:

Case 22-18: Brian Gardner, 1451 First NH Turnpike, Map 109; Lot 99. Applicant seeks an Appeal from an Administrative Decision of the Building Inspector for a sign permit to allow an off-premise sign.

Vice-Chair Sanderson stated that the application is an appeal from the Building Inspector for the denial of a 40 ft. x 8 ft. sign.

Mr. Gardner was present and represented the application.

Mr. Gardner explained that the sign is a vinyl sign, attached to a registered tractor trailer that sits on the property; currently used for storage. He stated that the sign has been on the trailer since April. He stated that he received a letter from the State of NH notifying him that a permit for the sign is required. The State permit requires that there be an approval from the Town. This was how he was made aware that the town also required a permit for the sign; he was then denied the permit due to the size of the sign. Mr. Gardner briefly reviewed the State form.

Mr. Gardner stated that there are other properties in Northwood that have similar signage, with size and are attached to trailers. He added that he understands the need for the ordinances as well as not having an abundance of signage up and down Rte. 4; however, residents may have the space for this type of signage. He noted that the other signs are not as aesthetically pleasing.

Vice-Chair Sanderson explained that any comparisons are not allowed as testimony. She explained that the ordinance allows for the total sign area to not exceed 64 sq.ft. This ordinance was put into effect via warrant article on March 12, 1991. The ordinances were adopted again in 1999 and this has not changed; it is still in existence and has not been amended.

Vice-Chair Sanderson read an email received from abutters Doug and Christina Vogel, of 1446 First NH Turnpike. The abutters indicated they support the process and

**Town of Northwood
Zoning Board of Adjustment Meeting
November 28, 2022**

procedures of the town requiring permits for signage. However, they do not support retention of unauthorized signage on a trailer that, in their opinion, degrades the property as well as surrounding properties.

Vice-Chair Sanderson also read comments provided from the Building Inspector through an interoffice department form that is requested by the board from other departments. Mr. Dinsmore stated that the size of the sign is well above the allowance of the current zoning ordinance. He noted that the applicant also mentioned other signs throughout the town that are larger off-premises signs; however, these other signs, and the associated permits, may have been in place prior to this ordinance being adopted.

Mr. Gardner stated that the signs themselves have changed and asked if new permits are required if a sign is modified.

Mr. Wilkinson stated that all other signs on trailers are irrelevant. This issue is the one sign on this trailer and the size of the sign being larger than what is allowed.

Ms. Smith stated that the only question that the board needs to address is whether the Building Inspector erred in his decision.

Vice-Chair Sanderson explained that should the board agree that the Building Inspector made an error, then the application is approved. She added that the sign is oversized; aesthetics is not the issue.

Mr. Gardner commented that the sign on the side of the trailer is less eye appealing than the trailer. Vice-Chair Sanderson stated that this application is not about the aesthetics; it is only about the size of the sign and the proposed size is too big.

Mr. Gardner stated that he is renting this space to another business. Ms. Dole asked if the regulations for off-premises signs would be different if this was advertising for the owner's business. Ms. Smith replied yes as it is a size issue. Mr. Gardner responded that there is no size issue for on-premises signs. Discussion ensued relative to the size of the sign proposed. Other sizes were discussed. Ms. Smith stated that the purpose for the denial was because of the size of sign.

With no further comment from the applicant, and noting that there were no abutters present, Vice-Chair Sanderson closed the public comment time and opened board deliberations.

Vice-Chair Sanderson stated that the matter for discussion is to determine if the Building Inspector applied the zoning ordinance correctly.

Ms. Dole asked for the wording of article, which was read by Vice-Chair Sanderson. Ms. Smith explained that the Northwood Business Association presented the verbiage, which was adopted in 1991. In 1999 there was a rewrite of the Northwood Development Ordinance. It was agreed to not alter the regulation for off-premises signs. The regulation is to not exceed 64 sq.ft., which still exists today.

Mr. Wilkinson commented that this is a clear case for the board and the Building Inspector has cited the ordinance correctly. He noted that the size of the sign is five times larger than the ordinance allows.

Ms. Guzofski stated that she does not believe that the Building Inspector erred.

**Town of Northwood
Zoning Board of Adjustment Meeting
November 28, 2022**

Ms. Dole commented that she understands that the ordinance is in place; however, she continues to struggle with the process as she has in the past.

Vice-Chair Sanderson explained that this application is specific only to the size of the sign being 64 sq.ft. and this size is not permitted by the ordinance.

On a motion made by Mr. Wilkinson, seconded by Ms. Colburn, the Board voted unanimously, by a roll call vote, to deny the Appeal from an Administrative Decision of the Building Inspector for an off-premise sign permit, based on the fact that the sign exceeds the allowable square footage as the proposed sign is five times larger than what the ordinance allows; the decision of the Building Inspector was correct in citing the ordinance.

Mr. Gardner asked how he can proceed. Ms. Smith explained that the board cannot provide any assistance or further direction; however, he can come in and meet with staff.

INTERNAL BUSINESS

Request for Rehearing

Ms. Smith stated that a request for rehearing has been received for Case 22-16. She explained that the statute to grant a rehearing is very clear. The Board can only act on what has been presented in the request for rehearing packet.

Vice-Chair Sanderson stated that the Board must take action on the request within 30 days.

A discussion was held regarding the upcoming meeting scheduled for December 26, which is a federal holiday.

Vice-Chair Sanderson made a motion, seconded by Mr. Wilkinson, to change the December 26 meeting to December 19, 2022, at 6:30 p.m. due to the holiday.

Vice-Chair Sanderson amended the motion, to schedule December 20, 2022, as a snow date, if needed for the December 19 meeting. Seconded by Mr. Wilkinson. The motion passed unanimously by roll call vote.

Members agreed to send the rehearing materials to town counsel for review and comment.

Ms. Colburn asked if town counsel should attend the meeting. Ms. Smith replied that she would ask counsel if they felt that their attendance would be necessary. Vice-Chair Sanderson suggested that if members have questions, they should be provided via email to Ms. Smith in advance.

Additional discussion was held regarding some reluctance with members relative to enforcing the ordinances that have been passed. Mr. Wilkinson suggested that members approach the planning board and propose modifying the development ordinances.

Vice-Chair Sanderson explained that the ZBA is a quasi-judicial board, and the job is only making the decisions relative to the ordinances.

Ms. Smith explained that ZBA members are held to juror standards. The duties are to uphold the ordinances, be impartial, and ready to support the regulations. When

**Town of Northwood
Zoning Board of Adjustment Meeting
November 28, 2022**

comments are made by members relative to their duties, it puts the ZBA's decisions at risk. She recommended that if anyone struggles, they should review the roles and responsibilities of a ZBA member; she offered to send out information and resources.

Vice-Chair Sanderson stated that the ZBA must look at each case individually and on its own merits, then come to a decision based on the evidence provided.

Ms. Colburn stated that she has watched some NHMA webinars specific to the ZBA. Vice-Chair Sanderson added that there are seminars put on by NHMA that address the wide scopes of regulations and ordinances, how they are created, and addressed.

Ms. Smith added that State law is making it imperative for the Board to provide fact findings making it harder to grant approvals (without meeting the criteris). She stated that the Board is representing the Town, doing the Town's business, and is representing what the voters have approved. She stated that the Board needs to uphold the regulations and only make the exceptions when they can be made.

Mr. Wilkinson added that the ordinances should encourage compliancy and so should this Board.

ADJOURNMENT

Motion to adjourn was unanimously accepted, by a roll call vote, at 7:20 p.m.

Respectfully submitted,

Lisa Fellows-Weaver



Land Use Assistant