

**ZONING BOARD OF ADJUSTMENT MINUTES**  
**TUESDAY, AUGUST 13, 2002 – 7:00 PM**  
**TOWN COUNCIL CHAMBERS – DURHAM TOWN HALL**

**MEMBERS PRESENT:** Bill Annis, Chair; Henry Smith; Robbie Woodburn; Ted McNitt; John deCampi, Alternate

**MEMBERS ABSENT:** Robin Rousseau; Jane Towle; Linn Bogle, Alternate

**OTHERS PRESENT:** Tom Johnson, Code Enforcement Officer; Interested Members of the Public

Chair Annis called the meeting to order at 7:03 PM.

Chair Annis stated that John deCampi would be a voting member this evening. He stated that before the agenda is approved, the Board would go into executive session to meet with the Town Attorney.

*Chair Annis declared nonpublic session at 7:05 PM*

*Chair Annis declared the meeting in public session at 7:40 PM*

**I. Approval of Agenda**

***John deCampi MOVED to approve the agenda. Ted McNitt SECONDED the motion and it PASSED unanimously.***

- II. REQUEST FOR REHEARING** on a May 14, 2002, decision whereas the Durham Zoning Board denied a petition submitted by Marcel E. Lavoie, Beverly Lyndes, Helen Morse, and Maria Russell, Durham, New Hampshire for an **APPEAL OF ADMINISTRATIVE DECISION** to permit the building of a duplex on a lot. The petition for a request for rehearing is submitted by David Meyer, Durham, New Hampshire and Jan Nisbet, John Moeschler, and Anne Long, Durham, New Hampshire. The property involved is shown on Tax Map 2, Lot 8-6, is located at 5 Madbury Court, and is in the RA, Residence A Zoning District.

John deCampi stated that he believed that Mr. Meyer had submitted his request in time, but Ms. Nisbet's request was received later than 30 days and therefore should not be considered.

***Ted McNitt MOVED that Board grant the REQUEST FOR REHEARING on a May 14, 2002, decision whereas the Durham Zoning Board denied a petition submitted by Marcel E. Lavoie, Beverly Lyndes, Helen Morse, and Maria Russell, Durham, New Hampshire for an APPEAL OF ADMINISTRATIVE DECISION to permit the building of a duplex on a lot. The petition for a request for rehearing is submitted by David Meyer, Durham, New Hampshire. John deCampi SECONDED the motion and it PASSED unanimously.***

- III. PUBLIC REHEARING** on a May 14, 2002, decision whereas the Durham Zoning Board denied a petition submitted by Marcel E. Lavoie, Beverly Lyndes, Helen Morse, and Maria Russell, Durham, New Hampshire for an **APPEAL OF ADMINISTRATIVE DECISION** to permit the building of a duplex on a lot. The petition for rehearing was submitted by David Meyer, Durham, New Hampshire. The property involved is shown on Tax Map 2, Lot 8-6, is located at 5 Madbury Court, and is in the RA, Residence A Zoning District.

John deCampi stated that they should reschedule the Public Hearing because Mr. Meyer's legal rep. was unable to attend the meeting.

David Meyer stated that he was not comfortable proceeding with the Rehearing without having legal representation.

***John deCampi MOVED that the Public Hearing be postponed until the September meeting of the Board. Robbi Woodburn SECONDED the motion and it PASSED unanimously.***

Chair Annis stated that the Rehearing would be item II on the agenda of the meeting in Sept.

- IV. PUBLIC HEARING** on a petition submitted by Harkirat Singh, Cambridge, Massachusetts, on behalf of BOP Realty, Dover, New Hampshire, for an **APPLICATION FOR VARIANCE** to permit the building of a commercial sign larger than 40 square feet in size. The property involved is shown on Tax Map 4, Lot 2, is located at 32 Main Street and is in the CBD, Central Business Zoning District.

*Chair Annis opened the Public Hearing.*

Harpreet Singh, owner of Campus Convenience, stated that the sign in question was bought with the store and has been there as it is for over a year. He stated that he is not in a position right now to replace the sign because it would be very costly.

Chair Annis asked Mr. Singh if the sign was in violation before they bought the store.

Robbi Woodburn stated that it seemed that the older sign permit was approved with contingencies.

John deCampi stated that it seemed this was neither a canopy nor an awning, and the sign portion was less than 4'x 28'. He stated that he could conceive that this would not be in violation if only the white area was considered as the signage.

Harpreet Singh stated that he would like to wait until the next time they need to replace the sign to bring it out of violation. He stated that he is concerned that a new sign might hurt the new business because people will think it is a different business.

Harkirat Singh stated that a lot of changes have already been made and a lot of money has been spent to help the store get ready for business.

In response to a question from Ted McNitt, Harpreet Singh stated that they do not own the building, but do own the sign, which is part of the store.

Annmarie Harris, 56 Oyster River Road, asked if there is anything in the sign ordinance that describes how much of the sidewalk can be covered by awnings.

Robbi Woodburn stated that she did not think this applies to what they are discussing.

Ms. Harris stated that she would question how far the awning projects over the sidewalk compared to the other awnings downtown. She stated that sometimes the walkway is obstructed because the awnings indicate the area that is ok for seating, although it is too far into the sidewalk. She suggested that if the Board approved the sign that there should be a time limit on when the sign has to be replaced.

*Chair Annis closed the Public Hearing.*

Robbi Woodburn stated that she felt they needed to determine if they were considering the white part and not the entire thing as the sign.

The Board discussed what portion of the structure they considered to be the sign.

John deCampi stated that if the sign was approved before, then he did not have an issue with granting a variance for it.

Tom Johnson stated that the sign was approved with the stipulations to correct the violations.

The Board discussed the dimensions of the white portion of the sign.

Robbi Woodburn stated that she felt they should just discuss the sign in terms of a variance.

In response to a question from Chair Annis, Harpreet Singh stated that he will probably need to replace the sign in 1 \_ years.

***Ted McNitt MOVED that the white area of the awning be considered as the sign portion.  
Henry Smith SECONDED the motion.***

Robbi Woodburn stated that she would not support this motion because she felt they would be setting a precedent, and that they would be redefining the ordinance definition of a sign. She stated that they should just consider this as a variance based on the criteria.

***The motion FAILED unanimously.***

***Robbi Woodburn MOVED to grant the APPLICATION FOR VARIANCE to permit the building of a commercial sign larger than 40 square feet in size, contingent upon the fact that***

***the sign will be brought into compliance within two years of this meeting date. John deCampi SECONDED the motion.***

The Board reviewed the following criteria, which must be met before the Board can grant a variance:

1. The proposed use will not diminish surrounding property values. **AGREED 5-0**
2. Granting the variance will not be contrary to the public interest. **AGREED 5-0**
3. Denial of the variance will result in unnecessary hardship to the owner **AGREED 5-0**
4. Granting the variance will do substantial justice **AGREED 5-0**
5. The proposed use will not be contrary to the spirit of the ordinance **AGREED 5-0**

***The motion PASSED unanimously.***

**V. Approval of Minutes - July 9, 2002**

***John deCampi MOVED to postpone approval of the minutes until Robin Rousseau and Jane Towle were present at the meeting to verify the content in the minutes. Robbi Woodburn SECONDED the motion and it PASSED unanimously.***

**VI. Other business:**

Chair Annis stated that he will be away on September 10 and will not return until the 16<sup>th</sup>. He suggested that the next meeting be held on the 17<sup>th</sup>.

***John deCampi MOVED to schedule the meeting of the Zoning board of Adjustment for September 17, 2002. Robbi Woodburn SECONDED the motion and it PASSED unanimously.***

Chair Annis stated that he has received a request from the budget office to prepare the budget, and he stated that Board members should provide feedback of possible budget expenditures for the next year.

*Chair Annis adjourned the meeting at 8:25 p.m.*