

Town of Randolph

Zoning Board of Adjustment

August 30, 2016

Members Present: Paul Cormier (Chairman), Mike Micucci, Alan Lowe, Bill Andreas, Guy Stever and Bob Leclerc.

Members of the Public: Emmerentia Oelofse (Mt Jefferson View Motel Owner), Dewalt Stiner (Mt Jefferson View Motel Manager), Caroline & Richard Doyle, John Scarinza (Planning Board Chair) and Robert Arbree (Planning Board member)

Call to order: The meeting was called to order at 7:05 by Chairman Cormier

Case # 2016-02 – Mt Jefferson View Motel – Variance

Chairman Cormier informed the board that the owners of the Mt Jefferson View Motel are seeking a variance from the Town's zoning ordinance to permit a sign which is in excess of the 16 sq ft limit set forth in the ordinance. Chairman Cormier asked the applicant to present their case. Dewalt Stiner (Manager) explained that the application is to permit them to keep the sign currently on the side of a tractor trailer container box being used as a storage unit. The current sign is approximately 75 sq ft and is on the west side of the property. They use the sign as a point of direction for customers as GPS is not accurate for the property. There are no lights on the sign but it is painted with reflective paint. Though the property is allowed 3 signs, they only have two. The storage unit is approximately 40' long and 10' tall and is about 35' to 40' from the road. Guy Stever questioned what directions are given to customers coming from the east. It was explained that customers from the east are told the property is 8 miles from Gorham. Guy then questioned why they couldn't use similar directions for customers coming from the West. Mr. Stiner explained that the other sign on the property is located on the East side and would be missed by eastbound traffic due to the corner in the road. However, there is a long straight stretch that allows that sign to be seen by traffic traveling westbound. Chairman Cormier read a letter from Mr. Pettegrew, who is an abutter to the east, stating that he was in favor of allowing the applicant to leave the sign on the storage unit. Guy Stever questioned why a 16 sq ft sign would not work in the current location. Mr Stiner explained that they had paid \$800 for the sign and there aren't any other signs in Town that meet the current zoning requirements although he understood those were probably grandfathered. However, he did agree that it could be done but that they were not aware of the 16 sq ft limit when they purchased the sign. Mike Micucci questioned if the container is owned which it is not. It was used to ship their possessions here when they moved and is only rented. Chairman Cormier reviewed the definition of a structure and regardless if the container is rented or owned, it constitutes a structure. Chairman Cormier asked if anyone from the public wished to speak in opposition to the application. Roberta Arbree cautioned the board that if they granted the variance, they would in affect be throwing out the sign ordinance. Chairman Cormier questioned how a tractor trailer unit would be viewed if one of the local truck drivers were to park their TT unit with a company logo on the side on their lot

and not move it. Would it morph into a structure and a sign? Guy felt it would morph into a structure and would become an illegal sign. John Scarinza explained to the board that, being the Code Enforcement Officer for the Town of Gorham, he has some experience with signs. The intent of why a structure with a logo on it is located determines if it is a sign. There are several Supreme Court decisions that state painting something on a vehicle cannot be used to circumvent the ordinance. However, if the vehicle is registered and customarily used for the business then it is exempt. This unit, though it is registered, it is not used for business at this point and is not moved. John cautioned the board that by the Town residents vote to approve the existing ordinance with the square footage of on 16 sq ft., it was obviously the will of the Town. Though no one could determine exactly what the reason was for the 16 sq ft limit, it was obviously thought to be appropriate. He reminded the board that the reason for the request for a variance appears to be monetary and though he understands it may be inconvenient, it does not pass the hardship test required to grant a variance. Also, he informed the board that the owner was not unaware of the sign ordinance as they went to the planning board when they considered changing the existing sign on the east side of the property. He cautioned that the sign clearly violated the ordinance as the painted portion of the sign is approximately 75 sq ft., however that only accounts for the lettering. The rest of the TT unit is also painted making the overall sign approximately 400 sq ft. The applicant testified that a 16 sq ft sign would suffice. He also cautioned that though ZBA decisions are on a case by case basis, there are Supreme Court decisions that indicate when zoning board's grant variances it sets a precedence and urged the board to deny this variance request. If the board finds that there are multiple requests for sign variances, please bring it to the Planning Board so they can consider amending the zoning ordinance at Town Meeting. Mr. Stiner rebutted that he was not aware of the ordinance as he was not involved with the property when the owner went to the planning board. He apologized that the sign is over the sq ft limit and stated he would be sure it didn't happen again and reiterated that changing it would be costly. The chairman closed the public hearing at 7:52

Case #2016-03 – Richard & Caroline Doyle – Variance

Chairman Cormier explained that the application was to permit a shed within the side setback and asked the applicant to present their case. Mr Doyle explained that there was previously a 4' x 10' woodshed attached to the front of the house closest to the street which was deteriorated and was removed. As the roof was salvageable, they saved it to use on the new shed. They don't want to rebuild the woodshed in the same location due to the bugs associated with wood storage. It also affects the aesthetics of the home. The new shed will be detached from the house and will be about 20' from the property line and approximately 100' from the street. It will be nestled in the woods so it will not be intrusive and will be approximately 25' from the abutter. It will not be on a permanent foundation. He also has letters from the abutters indicating they do not object to the variance. Chairman Cormier read the letters from the Minifie family and Bill Minifie. Mike Micucci questioned why they chose that location for the shed. Mr. Doyle explained that the door to the house is closer to the proposed location and there are gardens that limit where the shed can be placed. Chairman Cormier asked if there was anyone who wished to speak in favor or against the application. John Scarinza, who is the abutter to the east, explained that when the house was built it was located close to the property line. He has no objection to the proposed

location as it will not cause any issues with drainage and/or plowing. It will be approximately 200' from the abutting neighbors structure and will not have a permanent foundation. As there was no one else who wished to speak in favor or against, Chairman Cormier closed the public hearing at 8:07.

Board Discussion:

Case # 2016-03

Chairman Cormier visited the Doyle property and likes that the property has been returned to its original look and understands how moving the shed would require the Doyles to have to haul wood through the gardens. The proposed location is also not visible from the road. The board proceeded to go through the checklist for a variance.

- 1) No Diminution of property values
 - a) The gardens actually increase the property value
 - b) Removal of the woodshed restores the original look of the building
 - c) The new shed is not visible from the road
- 2) Public Interest
 - a) The proposed location of the shed improves the nature of the community as it is hidden from view
 - b) Removal of the original woodshed improves the appearance of the house from the road
- 3) Restriction of use
 - a) The gardens are a unique feature of the property and force the shed to be placed in the proposed location.
 - b) It is preferred to have accessory structure tucked away
- 4) Substantial Justice
 - a) The proposed location is a logical place for a woodshed
 - b) The setback for an accessory structure cannot met on that side of the property
 - c) Proposed location improves sight lines
- 5) Spirit if the ordinance
 - a)

On a motion from Guy Stever to grant the variance with a second from Bob Leclerc, the board voted to approve the variance without conditions.

Case #2016-02 – Mt Jefferson View Motel – Variance

Though Bob is sensitive to this being a new business and he understands why the applicant requested the variance, the sign clearly violates the ordinance. Granting the variance also sets a precedent. Guy suggested denying the variance and recommending to the Board of Selectmen that they give the applicant 6 months to plan a replacement sign. Chairman Cormier felt that a billboard sized sign was contrary to the spirit of the ordinance and that the size of the sign is largely excessive. He also did not feel that there were any unique settings to the property that forced a larger sign or the location. Alan Lowe felt that the variance should be granted as he

doesn't believe the sign will remain as it is rented so it would be temporary. The board proceeded to go through the criteria for a variance. Guy reminded the board that there are several remedies to this which would have the same affect and the applicant agreed that they could use a 16 sq ft sign

- 1) Diminution
 - a) The billboard size of the sign diminished property values
- 2) Public Interest
 - a) Granting the variance would be contrary to the public interest as the public voted to allow only smaller signs.
- 3) Restriction of use
 - a) There is nothing that interferes with the use of the property
- 4) Substantial Justice
 - a) Granting the variance would not keep the rural feel of the Town
- 5) Spirit of the ordinance
 - a) Granting the variance would be in opposition to the spirit of the ordinance as the Town residents voted to keep smaller signs.

Guy made a motion to deny the variance which received a second from Mike Micucci. All members voted to deny the variance with Alan Lowe voting in opposition to the motion. The board then voted to suggest to the Board of Selectmen that in support of a local business they give the applicant reasonable time to comply.

Old Business:

Chairman Cormier has appointed Dave Ruble as an alternate member of the board.

Next Meeting:

The board set their next meeting for September 27, 2016 with the following agenda items:

- 1) New board attorney
- 2) Course available to board members
- 3) Minutes

Adjournment: On a motion from Bob Leclerc with a second from Mike Micucci, the board voted to adjourn at 9:03

Respectfully submitted,



Michelle M. Lutz
September 5, 2016