

Town of Bartlett Zoning Board of Adjustment
Continuation of Public Hearing
May 10, 2018

Members present: Chairman Richard Plusch; Julia King; Norman Head; Anita Burroughs; Alternate Peter Pelletier. **Members absent:** Peter Gagne (with notice).

Also present: Eric Dziedzic and Chris Marchioni of Story Land.

Chairman Plusch called the meeting to order at 7:00 pm and announced this was a continuation of the April 23, 2018 public hearing for Festival Fun Parks, dba Story Land on behalf of Living Shores Aquarium.

1. Review and Approval of Minutes: The minutes of the April 23 meeting were reviewed. A motion to approve the minutes, as written, was made by Julia King; seconded by Norman Head. Vote: All in favor.

2. Continuation of Public Hearing - File 2018-01:

Applicant: Festival Fun Parks, dba Story Land for Living Shores Aquarium.
Location: 850 NH Route 16, Glen, NH
Bartlett Tax Map: Tax Map 2RT016, Lot 92R00
Purpose: A variance to allow new and/or replacement signage, or to negotiate the removal of some of the existing signage in order to allow new signs on the aquarium building. All present signage is grandfathered and exceeds what is currently allowed under the zoning ordinance.

Zoning Ordinance Section: Article XVI, Section B.

Eric Dziedzic and Chris Marchioni presented. Mr. Dziedzic noted at the last meeting the board had given them a directive to come-up with a new plan showing what both sides had agreed to at that time. This agreement was that four signs would be allowed on the building, with no one sign being larger than fifty-two square feet. The intention of this was to reduce the total overall non-conformity as had been requested by the selectmen's office. Mr. Dziedzic provided a revised set of plans and said the concept they were now proposing consisted of only one sign on the building saying "Living Shores Aquarium," which would be 52.33 s.f., in size and they were removing monument sign K which was 17 s.f. The Chairman asked whether the plans were drawn to scale and Mr. Dziedzic said yes. Norman Head asked whether the frame around sign K was also being removed, and Mr. Dziedzic replied yes again. Without a "restaurant" sign, Julia King asked how people would know a restaurant was located inside the building. Chris Marchioni said the existing Heritage sign would be used to advertise the restaurant. He also noted that he had been told that signage is not allowed on awnings. Julia King said that was correct, but the Chairman asked where it actually said that in the zoning ordinance. Mr. Marchioni said that was his question as well, as he read the ordinance pretty thoroughly and could find no reference to it. Ms. King went on to describe how sometimes umbrellas were used outside a business which were emblazoned with a beer company logo, for example, and said it was her understanding they were not allowed. The Chairman pointed-out that the umbrellas were not acting as a sign for the business, though. After a short discussion wherein Chris Marchioni described how they had calculated the square footage reduction assuming the awning sign was not allowed, Ms. King conceded she may have been mistaken and perhaps awning signs were allowed. Mr. Dziedzic said they weren't planning on having an awning sign and he was only asking the question due to being told it was not allowed but being unable to verify that in the zoning. He reiterated his earlier comment that at this point they were only looking to have the 52 s.f. sign on the building while removing the 17 s.f. one from the roadway. Norman Head read the portion of the zoning ordinance which stated no lot shall contain a total of more than four signs having a total combined message area not to exceed a total of sixty square feet. This prompted the number of grandfathered signs remaining on the lot to be counted, which totaled five. Mr. Dziedzic said they were removing one grandfathered sign and replacing it with the one on the building, so the end result was there would still be five signs, except the total square footage was being reduced from 341 s.f. to 323 s.f. Julia King, noting the parties were in negotiation, asked whether the applicant would also consider giving-up the most northerly monument sign, which would reduce the number to four as allowed by the ordinance. Eric Dziedzic said they had been asked by the board to reduce the amount of square footage of their signage, which they had done, and said he wasn't inclined to give up any existing signs at the moment.

The board proceeded to briefly discussed a comment in the selectmen's denial letter in regards to a small appendage sign reading "Storyland" which been added to Sign M, the former Heritage sign. The selectmen contend this small appendage was not a permitted sign as they could find no permit for it and stated it was not part of the original Heritage sign. Mr. Marchioni felt the small sign had been permitted and said he had asked the selectmen's staff to search for the photo of the Heritage sign showing the appendage added, but he had not heard back from them. He said even so, the small sign only represented approximately six square feet since it overlapped the main sign, and that he would address the issue again with the selectmen. He said if the appendage was found to be non-compliant, then they would remove six square feet.

Each sign was discussed again in detail with the board concentrating on the size, what it said and what it was proposed to say, and where it was located. The Chairman said he was still inclined to make them remove another existing sign to reduce the number on the property to four and bring them into compliance. When Julia King noted the signs were grandfathered the Chairman said removal of another one could be a condition of approving the wall sign. Norman Head said only the existing signs were grandfathered, and if a new sign was being proposed on the southerly portion of the building, then he felt that could be up for negotiation. While the Chairman felt sign L may be expendable and could be removed, Norman Head said if it were him being forced to give one up it would be sign J. Anita Burroughs asked Eric Dziedzic whether sign J was important to him. Mr. Dziedzic said they had never used it and it wasn't important to him personally, but the directive he had received from his head office was to give-up one sign and procure permission for one on the wall of the building. Peter Pelletier asked if the board followed the Chairman's lead and the applicant gave-up signs J and K in return for a sign on the building and his head office was not willing to accept that compromise, would there be grounds or an opportunity for head office to appeal the ZBAs decision. The Chairman said he did not think so. They could submit a new application and start over, although there was a 30-day appeal period if new information became available. Mr. Pelletier cited the selectmen's denial letter whereby they indicated if there was some reduction in the square footage, they would be amenable to the wall sign. Julia King said the ZBA's decision was really up to the ZBA, and was not contingent on the selectmen's opinion. Mr. Pelletier agreed, but commented that sometimes the board has to take into consideration where the selectmen were coming from, where the ZBA was coming from and what the responsibilities of this board are. He said the applicant had been asked to reduce the overall non-compliance of their signs, which they had done. He felt they had done what we wanted and he would not be opposed to discussing a compromise. Julia King lamented the fact that former Story Land owner Stoney Morrell had merged the two lots since had that not been done, four signs would have been allowed on each. However, since he had done so, she felt it was the board's job now to protect the zoning ordinance as best we can. Eric Dziedzic said he somewhat agreed, but noted that if every grandfathered sign along the road was used for advertising Story Land and the aquarium, it would still represent way more than what he was asking for to have a sign on the building. He also noted that 25% of each window would be allowed to have signage and said while he was not threatening to do that he was simply pointing-out there were other ways to ensure people were aware of what was being offered inside the building.

Norman Head asked again what the grandfathered size of the existing Heritage sign was. Mr. Dziedzic said there was a question as to whether it was sixty or sixty-six square feet, depending on whether the appendaged sign was counted. The Chairman asked if the applicant was willing to give up two monument signs to get what they wanted. Mr. Dziedzic said what they really wanted was to have a 99 s.f. sign on the side of building, but were made to compromise due to the board's decision last meeting. Peter Pelletier said while he felt 99 s.f. was out of the question, he would not be opposed to a 60 sq. ft. sign which was only slightly larger than what was proposed on the plans provided tonight. The board discussed this and eventually came to the decision it was an appropriate compromise to have a 60 s.f. sign on the south side of the building so long as monument signs J and K were removed. Eric Dziedzic asked why the south side was being stipulated, since they would like to place it on whichever side would provide better visibility especially since new trees had been planted which might obstruct its view from the roadway. The board agreed it could go on whichever side of the building the applicant wanted. Mr. Dziedzic also asked if there was opposition from head office, could they walk away from this decision and keep just what they already had. The Chairman advised they could certainly do that.

At this point the Chairman asked if the board had any further questions. When none were forthcoming, he closed the continued public hearing and the board deliberated and voted on the five conditions which must be met before a variance can be granted, as follows:

- a) Granting the variance will not be contrary to the public interest. Vote: 5 agree (unanimous).
- b) Owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship. Vote: 5 agree (unanimous).
- c) The spirit of the ordinance is observed. Vote: 4-1-0 (Julia King disagreeing).
- d) Granting the variance would do substantial justice. Vote: 5 agree (unanimous).
- e) The value of surrounding properties will not be diminished. Vote: 5 agree (unanimous).

Based on the above vote, the Chairman called for a motion to grant the variance with conditions attached that the sign to be located on the side of the aquarium building not exceed sixty square feet, and that signs J and K, the two existing northerly signs on the property, be eliminated completely including all framework and structure. Motion was made by Norman Head; seconded by Julia King. Vote: All in favor. The selectmen will be notified of the board's decision.

After the vote, Chris Marchioni advised of their intention to "pretty up" the existing signs as the selectmen had wanted. He asked for confirmation that 25% of window space was allowed to have signage. He was told this was correct. Eric Dziejdzic asked whether the shape of the wall sign had to be rectangular. The Chairman reviewed the zoning ordinance and could find nothing which dictated what shape a sign was required to be. Mr. Dziejdzic asked whether the building sign was required to be flat against the building or whether it could be a projecting sign. Since the zoning ordinance specifically allows projecting signs and wall signs, he was advised it was not required to be flat.

Mr. Dziejdzic and Mr. Marchioni thanked the board members for their time.

With no further business, a motion to adjourn was made by Peter Pelletier; seconded by Anita Burroughs. Vote: All in favor. Meeting was adjourned at 8:25 pm.

Respectfully submitted,
Barbara Bush
Recording Secretary