

ZONING BOARD OF ADJUSTMENT

MINUTES

February 15, 2022

APPROVED: 5/3/22

AGENDA: 22SPX01 – DURWARD MILLER JR – 86 SUMMER ST #114-084

ATTENDING: Alan DeStefano (Chair – Via Zoom), Richard LaFlamme (Vice Chair), Larry Denton, Melody Mansur, Lorraine Bohmiller

ABSENT: Ashley Dolloff (alternate)

OTHER: Christina Goodwin (Land Use Manager), public and applicants

Mr. DeStefano opened the meeting via Zoom with a quorum in-person 6:00pm.

MINUTES OF JANUARY 4, 2022, BOTH PUBLIC AND NON-PUBLIC:

The minutes of January 4, 2022, both public and non-public were reviewed.

Mr. Laflamme motioned to seal the non-public minutes of January 4, 2022, indefinitely, seconded by Ms. Bohmiller. The motion carried 5-0-0.

Mr. Laflamme motioned to approve the public minutes of January 4, 2022, as written, Ms. Mansur seconded. The motion carried 5-0-0.

Mr. Laflamme motioned to approve the non-public minutes of January 4, 2022, as written, Ms. Mansur seconded. The motion carried 5-0-0.

22SPX01, DURWARD MILLER JR, 86 SUMMER ST, #114-084

Ms. Goodwin read the application, abutters notified, and where the hearing was advertised. She stated that there were no written comments nor phone messages received from the public. The case was noticed for the February 1, 2022, meeting, but was moved and re-noticed. The owner is looking to permit an off-premise sign.

Mr. Miller thanked the Board for granting the rehearing. He advised that there are two (2) key points that he did not properly define previously. The first is that the application is addressing one (1) sign, one (1) structure, and a previously permitted sign that is being re-positioned. The second is that the Special Exception is a reasonable permitted use that follows the sign ordinance. Mr. Miller is applying for a Special Exception to add a off premise sign to an existing sign . He adds that Colby Property Maintenance does not operate a business out of the location.

Mr. DeStefano asked the Board to review the application to determine if it is complete. Mr. Laflamme motioned that the application is complete, seconded by Ms. Bohmiller. The motion carried 5-0-0.

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Ms. Mansur inquired on the size of the sign. The sign height was increased. Ms. Goodwin added for clarity that the Special Exception is for the bottom section of the sign only, which is the Colby Property Maintenance sign. Mr. Miller clarified that his company sign is being changed and the off-premise sign will be added to that sign. Mr. DeStefano added that the Zoning Board would not review the sign structure at all. Ms. Bohmiller asked about the relationship with Colby Property Maintenance. Mr. Miller replied that his franchise is requiring a change of the existing logo, so he thought it would be beneficial to add the Colby Property Maintenance who does work for Mr. Miller's company. Ms. Goodwin added that the Colby signs received a violation notice, which required that the Colby signs be removed or permitted every year, in every location, for a seasonal sign. With no further questions from the Board, Mr. Miller reviewed the Special Exception criteria:

- Criteria 2. Appropriate location and adequate size – The new proposed sign conforms to the existing and permitted uses in the zone and relevant sections of the sign ordinance.
- Criteria 3. Use will not adversely affect the area – The proposed sign meets the spirit and intent of Article 4.11. The use is consistent with the character and appearance of other properties in the neighborhood and district. Mr. Miller shared examples of other off-site signs. Mr. Denton inquired if the signs shared are just for off-site reference. Mr. Miller confirmed.
- Criteria 4. No nuisance or hazard to vehicles or pedestrians – The proposed sign orientation increases visibility and improves abutters line of sight. Mr. DeStefano inquired on the sign being taller than the existing but being moved back. Mr. Miller confirmed.
- Criteria 5. Will not place excessive or undue burden – The proposed sign is set back from the Town right-of-way and is less obtrusive.
- Criteria 6. No significant effect resulting from use on public health, safety or welfare – A sign by nature cannot cause a danger to the public health, safety and general welfare of the neighborhood. The proposed sign should not be regulating content.

Mr. Miller added a summary of the criteria reviewed. He noted the requirements of the sign ordinance, was to enhance the aesthetic environment and the Town's ability to attract sources of economic development and growth.

Mr. DeStefano opened the hearing to public in favor or in opposition of the application. Ms. Seeler, an abutter, asked the Board to continue the hearing. She felt that Mr. Miller had a Site Plan and applications for a Variance, and she is concerned that they haven't been reviewed for this meeting. She said that Mr. Miller states that the business does not operate at the location, and she feels that this sign implies the business is located on site and is a violation. Mr. DeStefano thanked Ms. Seeler for her comments but added that the Board is not here to enforce or police the Site Plan. Mr. DeStefano deferred to the Board. Mr. Laflamme motioned to not continue the case, seconded by Ms. Mansur. Ms. Bohmiller added that she didn't feel that the case needed to be continued. The motion carried 5-0-0 and the hearing will move forward this evening.

Mr. Miller pointed out that there were two businesses in the main building with the garage being used for storage. He added that Mr. Colby's use of the back building is not in violation. Mr.

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DeStefano asked if Mr. Colby operates any part of his business on location. Mr. Miller said it is storage only. Mr. Denton inquired of Ms. Seeler, if her past concerns on parking are still a concern. Ms. Seeler stated that there haven't been a lot of parking issues, but she is concerned that people are going to stop to read the sign, which may cause safety issues. She added that Mr. Miller has been doing a good job at making people understand the parking. Mr. DeStefano reminded the Board that the Zoning Board is not here to interpret the Site Plan. Ms. Bohmiller asked if the sign that Mr. Colby wants to place is strictly for advertising and Mr. Miller confirmed. With no other comments or questions, the public hearing was closed at 6:35pm.

The Zoning Board addressed the Special Exception criteria:

- Criteria 2. Appropriate location and adequate size – Mr. Denton motioned that the application has met this criteria, seconded by Mr. Laflamme. The motion carried 5-0-0.
- Criteria 3. Use will not adversely affect the area – Mr. Laflamme motioned that the application has met this criteria, seconded by Ms. Bohmiller. Ms. Bohmiller felt that the sign would be being moved back and less intrusive than now. The motion carried 5-0-0.
- Criteria 4. No nuisance or hazard to vehicles or pedestrians – Ms. Mansur motioned the application has met this criteria, seconded by Ms. Bohmiller. Mr. Laflamme added that he lives across from the property and is not aware of any hazards or nuisances. Mr. Denton added that the parking issue doesn't appear to be as much as previously. Ms. Bohmiller felt that the small sign eliminated improves the location. The motion carried 5-0-0.
- Criteria 5. Will not place excessive or undue burden – Mr. Laflamme motioned that the application has met this criteria, seconded by Ms. Bohmiller. The motion carried 5-0-0.
- Criteria 6. No significant effect resulting from use on public health, safety or welfare – Mr. Laflamme motioned that the application has met this criteria, seconded by Ms. Bohmiller. The motion carried 5-0-0.

Mr. Laflamme motioned to grant the Special Exception, seconded by Ms. Mansur. The motion carried 5-0-0.

Mr. DeStefano reminded the property owner of the 30-day appeal period. Ms. Goodwin reminded Mr. Miller to submit sign permit applications for both signs.

COMMUNICATIONS: None

UNFINISHED BUSINESS: Ms. Goodwin noted that the Planning Board will be setting some priorities for the coming year and asked if the Zoning Board had any other priorities for the Planning Board to consider. She is already bringing the request for better guidelines on off-premise signs.

NEW BUSINESS: Ms. Mansur inquired on chickens and Ms. Goodwin stated that they are allowed but they are not supposed to be free-range.

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NEXT MEETING: The next scheduled Zoning Board meeting is March 1, 2022, at 6:00 p.m. Mr. DeStefano may not be available for this meeting. There is currently a Special Exception scheduled.

With no other business before the Zoning Board, Mr. Laflamme motioned to adjourn at 7:49pm, seconded by Ms. Bohmiller. The motion carried 5-0-0.

Respectfully submitted,
Christina Goodwin
Land Use Manger