

**MINUTES OF ZBA MEETING OF
JULY 20, 2009
APPROVED BY BOARD OCTOBER 19, 2009**

PRESENT: S. Bogert, **Chairman;** D. Lasell, **Vice Chairman;** P. Lambert, S. Perley, R. Tautkus, J. Tivnan (Alternate)

ABSENT: D. Greski, O. Gibbs

STAFF: S. Saunders, K. Snow

S. Bogert called the meeting to order at 7 pm and welcomed everyone to the July 20, 2009 meeting of the Laconia Zoning Board of Adjustment. He introduced J. Tivnan, the new alternate member of the ZBA, to the board and the public.

HEARINGS:

CONTINUED HEARINGS:

Application # 2009-00014	MSL # 450-54-14	Commercial (C) Zone
L. Knott	174 Court Street	Area Variance

The applicant is seeking a Use Variance from 235-58, Table VI, Sign Regulations, in order to install additional signage. The applicant is allowed 3 signs and 166.5 SF of signage. They want to install 4 additional signs and still be under the allowed 166.5 SF.

The applicant revised their sign application to include only 3 signs and has already applied and received the permit, so the application can be dismissed without prejudice.

Motion: A motion to dismiss application 2009-00014 without prejudice was made by S. Perley and seconded by R. Tautkus with all voting in favor, 5-0.

Application # 2009-00013	MSL # 287-178-9	RS/SPOD Zone
P. Corbett	136 Paugus Park Rd	Area Variance

The applicant is seeking an Area Variance from 235-41 (L) in order to store a travel trailer in the side of his residence. The house sits 80 feet from the street and the trailer is 15-17 feet away from the side property. Setbacks in this zone are 25' front and 10' side.

Applicant: Phillip Corbett appeared for the application. He wants to store his travel trailer along the side of his house. There is room to store it behind his house but he would have to remove 4 large trees and he doesn't want to do that. The nearest abutter has no problems with this proposal and it complies with the setbacks; it just does not sit to the rear of the house. He said this is not very visible from the road.

P. Lambert clarified that this request is just for the storage of the vehicle and no one would be living in it; he was told that is correct. P. Corbett said there is no water, no electricity, and no septic. S. Perley said the application said that the trailer is in use 2 weeks a year and was told yes. She said she went to the site and that it is visible from the road, but being placed in the rear of the lot would create an eyesore from the lake. She wondered if he needs a carport or covering of some sort and D. Lasell said it is allowed if covered per the ordinance. P. Corbett said if doing that he would have to obtain permits from DES.

S. Perley asked about the shoreline protection and S. Saunders said storing a trailer is fine. If doing a structure, it needs approval from DES. S. Saunders said a carport would be considered a structure. S. Bogert asked if one of the half round structures would still be classified the same and was told yes; S. Saunders said it has been historically because it needs hurricane tie downs, so becomes permanent, and

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would need shoreline approval. D. Lasell asked if this is further than 50 from the water and was told yes. He said if the applicant elected to erect a structure, he would not have to be here.

P. Corbett said he will do a structure if the ZBA requires it but doesn't want to. He would prefer this variance to just store along side the house. Doing a structure would require a new application to the state as well.

D. Lasell said he wants clarification on what the applicant wants to do and P. Corbett said he just wants to store the trailer, with no structure, along side of his house. S. Perley said she feels the camper is unsightly but feels a carport would be unsightly here, too.

Public: No one appeared from the public for or against this hearing.

S. Bogert closed the hearing to the public.

Board: S. Perley asked if there is a way to make sure the trailer condition is removed if the applicant moves. P. Corbett said he would be willing to accept a two year variance as they are not planning to keep it any longer than that. S. Perley asked if there were such a thing and was told yes. P. Lambert said Laconia is unique in this because there are so many boats/trailers in the city. He said he could understand if this was on Main Street but this is a larger lot, and no one complained about it, so he feels this is a good case for a variance.

D. Lasell said the ordinance calls for a structure and S. Bogert said a carport won't hide it anyway. S. Perley said the intent is to keep from public view.

Motion: S. Perley moved to approve application 2009-00013, for an area variance. The property is located in the SPOD. Our ordinance requires this to be stored behind the house, which would place it in the shoreland area, so this proposal is a good alternative. There is sufficient land to store the vehicle, and it is somewhat sheltered. There is no other way to achieve this without an area variance. Trees would have to be removed to place in the rear. This won't be contrary to public interest and no one spoke for or against the application. This is consistent with the spirit of the ordinance and substantial justice is done as the benefit achieved negates anything against it. The property values won't be diminished and the applicant did agree to a 2 year time frame.

The board added the condition that, under no circumstances, can anyone live in the trailer.

D. Lasell seconded. The vote was taken, 4-1, so the application was approved for the following reasons:

a) Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship.

i. An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property; The special condition that exists is that the property is located in the Shoreland Protection Overlay District, (SPOD). Our ordinance requires placing the trailer behind the residence, which would place it in the shoreland area, so the proposal is a good alternative; **AND**

ii. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance; While there is sufficient land to store the trailer to the rear of the house, that would require it be placed in the SPOD and would require the removal of several trees; **AND**

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(b) The variance will not be contrary to the public interest; No one from the public spoke for or against the application and the benefit to the property owner outweighs any detriment to the public; **AND**

(c) The variance is consistent with the spirit of the ordinance; Approval of the variance is consistent with the spirit of the ordinance as it allows the property owner full use; **AND**

(d) Substantial justice is done; the trailer is still as far out of the public eye as is reasonable on this lot; **AND**

(e) The value of surrounding properties will not be diminished; The property values should not be diminished by the proposal.

The board also added 2 conditions to this approval:

- 1) The applicant agreed to a two year time frame for the approval. It would expire on July 20, 2011.
- 2) At no time will the travel trailer be used as living quarters.

NEW HEARING:

Administrative Appeal, 220 Union Avenue, MSL 428-220-5

The applicant is requesting an Administrative Appeal from interpretation of Section 235-58 (A) regarding sign frontages on the property at 220 Union Avenue.

Applicant: Paul Bordeau and Robert Westergin appeared. P. Bordeau said this appeal came about because of S. Saunder's interpretation at the last meeting.

He said that the issue of multiple street frontages has arisen a few times over the years. D. Emerson, the previous planning director, interpreted the ordinance in this manner and S. Saunders has continued to do so. He said that simply because a town, board, or administrative official has interpreted something in a way, for years, doesn't mean it is correct. What was the intent? We don't have access to that information.

He said that the Court has come with a systematic approach to interpreting a document. The first tenet of interpretation is to read the language; if the language is plain/clear, with no ambiguity, you read the remainder of the document, and if you can read the entire piece of writing and it comes together and makes sense, with no ambiguity, then you are stuck with what the plain meaning of the writing says. There is no need to look for intent beyond that. There is no need to go further – in fact you cannot go further – you are stuck with what the writing says. If this is contrary to what the interpretation has been, then you need to go back to your City Council or ruling body, and say this is how this has been interpreted, it is incorrect, and get it re-written. There is no need, no room, and no allowance when the language of the ordinance is clear.

Signs are ruled by Article 235-58, accompanied by Table 6, which is easy to interpret. This is located in the Professional (P) Zone. If you look at the table, the total number of signs says 2. The total area, the table says the maximum allowed is 42 SF. That is what the table says. The note states that number is for each business so you are allowed 2 signs for each business for the maximum per lot, with no development identification signs.

In 235-58 table of sign regulations, the following table displays the number, area and types of signs for each zoning district. The critical phrase is the limitation: the table says "subject to the following limitations". The table controls except subject to further limitations, which is spoken to in 235-58.

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Those limitations are: A) total for each sign frontage for a building. This is telling us to consider the lot, the businesses, and the sign frontages as well. This has 2 sign frontages. There is a presumption that the words in the document are there as they have meaning and purpose. Consider the conditions and the fact that this tells us the total number of signs for sign frontages.

(B) Also the sign area for each sign frontage. This agrees with S. Saunder's calculations. If you take the table and give 2 sign frontages, this is not a true reading of the first 2 sentences. The information is found in the table. It is not surprising that things can be misinterpreted; it is easy to do. We are fortunate here as the language is clear; we are not allowed under the law on how to interpret this. We do our jobs with diligence and pride and learn. P. Bordeau said this is what he does day in/day out; this is his job. The language does not allow S. Saunder's interpretation, it is plain and clear language. Read 235-58 (A), first the 2 sentences, which say "The following table displays the number, area and type of signs permitted for nonresidential uses in each of the zoning districts, and subject to the following provisions:"

He asked the board to take 3 minutes and read the ordinance, forgetting the past interpretations, and see what makes sense to them.

Board: P. Lambert asked P. Bordeau if he feels the property deserves 84 sf of signage and P. Bordeau said not only deserves it, but is entitled to it.

S. Saunders went over her explanation for the board. She said she agrees completely with P. Bordeau in that the board needs to look at all the phrases and words in the ordinance. If you look solely at 235-58 talking about sign frontage, numbers, and stop there, then P. Bordeau's interpretation seems correct. But continue on and look at the chart, where it explicitly says the number of signs per business and the maximum sign area per lot, and the interpretation widens. The two almost contradict each other. She feels the intent of the ordinance is captured in the note, so has always interpreted in this fashion. She does not feel that corner lots were intended to have twice the number of sign and twice the maximum area. That doesn't make sense when the rest of the sign ordinance is so strict. There are not many lots that would have this issue ,specifically only two in the last 5 years or so. The first at Meredith Village Savings bank, where the board decided that they could only have one sign although they had two frontages, and Walgreens where the board determined the same.

S. Saunders said that when she started D. Emerson went over this with her specifically and showed her how this was related. In the past 8 years, the city has interpreted the information in this fashion. To further explain the "" per business. In a strip mall type of setting, which is one lot, each store front gets 2 signs, but CVS is located on one lot they only get the one per business. Look at the ordinance as a whole. The board might want to make a recommendation to re-write it. She mentioned that she made a typo in her memo regarding Walgreen's, on the date for their number of signs. They appealed at that time, saying per business, and the board upheld the decision then.

P. Lambert said it is interesting that this was 5 lots and CVS had to combine before getting their site plan approval. If they had left this as the 5 lots they would have received more signage. He said it probably is time for a re-write but he has a question on this proposal. P. Bordeau has been stating the sign frontage as 84 SF but the talk was for over 200 SF. P. Bordeau said that is true.

S. Bogert said there is no public input on this as this is just an appeal of the interpretation.

P. Bordeau asked the board to consider if there is ambiguity. He said to ask if there is a reasonable reading of the ordinance which makes sense which harmonizes the elements to get to an integrated whole without contradictions. He said we are reading and ignoring the mandate that says sign frontage.

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Go to the table and assume there are several businesses here. Since CVS has frontages on two streets, the several businesses would have been allowed to do this, so why not CVS. Life blood of any business is to communicate to the public what the business is. The note is part of the table, not the ordinance; the ordinance would have the limitation on totals. The interpretation of everything, including the note, is made subject to per sign frontage application. He said there is no contradiction; read the note. This is part of the table, tells us the table is per sign frontage. The note, by being placed in the table, clarifies this. Apply the table for each sign frontage; there is no conflict.

S. Bogert read 235-58 (A) which says “shall not exceed the lesser of the following” and (1) further states “or maximum sign area indicated in the table.” He said P. Bordeau omitted that.

In reading 235-58 (A), 1 and 2 they both say “or the maximum sign area”. P. Bordeau said we are interpreting as AND not OR; we have forgotten the beginning of the sentence which talks about each sign frontage. This is per each sign frontage. P. Bordeau said this has 2 frontages so gets the 84 SF.

S. Saunders said to read the first sentence, “the following table displays” “and subject to the following provisions.” P. Bordeau is saying the verbiage is further explained by this. She says that both statements need to be looked at equally.

S. Saunders said the sign ordinance in Laconia is fairly strict. In an adjacent zone, the Downtown Riverfront, it even dictates the materials of signs, so she does not feel that this means a business can have double signage. That doesn't go with the whole spirit of the ordinance.

S. Bogert closed the hearing to the public.

Board: D. Lasell said some wording is ambiguous but the table is more specific and doesn't require additional interpretation. P. Lambert stated he can see the confusion. He doesn't feel that 42 SF of frontage is correct here but does agree that the sign ordinance is strict here. A re-write should be definitely done, with precise/concise language. R. Tautkus said this is in the Professional zone and P. Lambert said it is a business.

S. Bogert said there will never be a day that there isn't talk on interpretation. Everyone has a different interpretation. P. Lambert said this has done us well; the past practice is good, but he feels there is room to make wording clearer; anything can be made clearer. He is not opposed to making changes but doesn't feel this is a problem, though. This has worked well for us here in the past and he certainly does want to help the business.

S. Bogert said we move tonight to continue with the City's past interpretation or not.

Motion: P. Lambert moved to deny the administrative appeal regarding the interpretation made by S. Saunders at the July 15, 2009 ZBA meeting on sign frontages. The motion is to uphold the current interpretation. D. Lasell seconded, and all in favor of upholding the interpretation, 5-0 for the following reasons:

The ordinance, seems to contradict itself in the two locations, however the way it has been interpreted seems more in keeping with the spirit of the ordinance. So this vote is to uphold the Administrative Decisions made by the Planning Director at the June 15, 2009 ZBA meeting that a property with two sign frontages does not get twice the number of signs and twice the total/maximum allowed sign area. But instead the total number of signs is per business and the maximum sign area is per lot, as the notes in the Table VI – Table of Sign Regulations point out.

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On the next hearings for CVS, S. Bogert said 3 members will be a quorum. The issue is that they went with the short board of 4 last month, only 3 of those members are here this evening, and we will only have 3 in August as well. P. Bordeau asked for a minute to confer with the applicant.

P. Bordeau said they would continue with the hearings. **Applications 2009-00017 – 2009-00025** will be heard with 3 board members, S. Bogert, P. Lambert, and R. Tautkus; D. Greski is not present this evening.

CONTINUED HEARINGS:

S. Bogert said that the board members went on a site visit to the CVS site from 6:00 – 6:30, so members could get a feel for the site. He opened the hearings back up to the applicant.

P. Bordeau said he is not going through the applications again as he has already gone over them and they are very lengthy. The theme is that this is a retail business. They got a Special Exception for this to be located in the Professional zone. They merged 4 lots per planning approval. He feels that could have been done in other ways. He feels the business should follow ordinances as if in a Commercial zone since the Special Exception allowed it to be used in the Professional zone. They would have more signage but the business will become the anchor to the neighborhood due to the continuing transition of this part of city from older apartments to professional offices, to larger scale commercial developments which will draw people from out of the neighborhood.

They are almost complete on the site. The building fits to scale, and is a good addition. This will look odd with only 2 signs and 42 sf of signage. It would look ridiculous and would not fit in the neighborhood.

He asked the board to give consideration to the requests. He said to take into account that Church Street is behind them, which is a major thoroughfare. Signs benefit the business and are a signpost for the public to find the business.

P. Lambert asked the square footage of the freestanding sign and was told it is 20 ft high, both faces are the same; it is double faced, they are just increasing the height. P. Lambert said he feels the sign at CVS in Gilford is much smaller than what is being proposed here. Paul Westergrin said it won't look the same without the decorative top, but they could remove 4 feet, bringing the height of the sign down to 16. The height allows cars to look between the pylons to see if there is traffic coming for safety issues. They need 59.95 SF on the pylon. S. Bogert asked about obscuring traffic and S. Saunders said the ordinance speaks to corner lots for view distances.

P. Lambert said the ordinance allows 42 sf, and they want over 200. He asked why they need 3 feet letters as there is not much sight distance from the center of the road to the building. These are very large letters, but why this big. These are the signs on the gable ends. P. Westergrin said they are 36" letters, but 48" is the standard, so they were reduced already. P. Lambert said he just doesn't feel the need here. P. Westergrin said he does feel they are needed. P. Lambert said the rear elevation is 24', so feels that is appropriate, but doesn't think the distance warrants the 36" letters as there is limited sight distance. S. Bogert asked if a Professional zone holds professional offices. He said this is run by a pharmacist, who has a degree.

S. Bogert said that P. Bordeau indicated that he feels he has a right to be considered a commercial use but S. Bogert feels that they are being invited into a Professional zone, so they should be more aligned with that zone. P. Bordeau said if removing the pharmacy use, they would have a neighborhood store and S. Bogert asked if the pharmacy is what brings the people in. P. Bordeau said he is unsure if these items could be purchased in other places. S. Bogert asked when advertising, what do they advertise - prescriptions or the other items and P. Bordeau said convenience is what draws him in - a greeting card or something else. P. Westergrin said the main draw is the pharmacy, in his opinion. P. Bordeau said if the pharmacy closed, he

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feels they would stand alone as a retail store and S. Bogert said the rest of the uses are ancillary to the pharmacy. CVS stands for Consumer Value Stores, which was easier to do and required fewer letters.

S. Bogert indicated signage is needed so people outside of the area will know where they are located. This is not intended to be a neighborhood draw, but a landmark that would be known further afield per P. Bordeau. S. Bogert said it should take on the character of the neighborhood but it is not necessarily there to serve just the neighborhood. P. Bordeau said for this kind of store, signage gives the recognition, and P. Westergin said this is meant to match the corporate image nationwide, which is the primary reason for signs.

P. Lambert said it was noted at the site visit that the pylon sign is not located properly, and is within the 50' setback. S. Bogert said that would be addressed at permitting time. If they cannot meet code, it would require another variance.

The board took a five minute break, returning at 8:45.

S. Saunders answered the question on special setbacks, 235-35 (D), signs are exempt from that; they just follow the front setback, which is 15 ft here, from the property line.

S. Bogert opened the hearings to the public:

Public: Mark Dadian, 118 Church Street. He said they are doing a good job of building, and he appreciates them removing the crack houses that were located here but he is concerned with the amount of signage going up. He feels this will be obtrusive. It won't block his view but it will be glaring. Ordinances are intended to prevent that from happening. He said Laconia is a fairly quiet community. There is a CVS in Belmont, one in Gilford, and now one in Laconia. We have a new WalGreens, and a Rite Aid, so we won't have to go far to find a drug store. Anyone who lives in Laconia will find you without signage and outsiders will use GPS or a mapping program to find them.

A 20' sign will obstruct the skylines. There are houses in this area, and a lawyer's office here. It does look homey with the siding but this will be a large footprint in the center of the city. 3 ft letters are huge. He has seen the siding and gable ends, and doesn't feel 3 ft letters are necessary here. They knew they were coming into a professional area, knew there were restrictions, why do we now need to bend over backwards for a new business. Walgreens has met the restrictions; Brooks/Rite Aid has met the limitations. Auto Zone has met them. It doesn't seem as more signage is necessary; it will take away from the community sense. 11 signs is overkill. He doesn't see this as an anchor store because of the proximity of the other drug stores. He is glad they are here, he is a small business owner and needs to get his name out there, but they had to be aware of the ordinances. The town has given them a lot; they should be satisfied with what they have received. He feels the board did a good job of interpreting the ordinances as written.

Mark Beaudoin: (The following was cut and pasted from their statement read at the meeting.)

I am an attorney at Normandin, Cheney & O'Neil here in Laconia. Tonight I am representing Normandin Square Associates who, as you saw today, are the owners of property on Union Avenue across from the CVS.

Normandin Square Associates object to some of the excessive signage proposed by the applicant. We especially object to the granting of area and use variances for the proposed large animated sign.

Ultimately, we believe that the applicant does not meet the requirements of a variance because there is nothing unique about this property or the use of this property that requires such drastic relief from the

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zoning ordinance and that if these variances are granted it will do much harm to this professionally zoned section of the city.

The signage which the applicant proposes, which was not on the original site plan associated with their special exception and now requires 9 separate “after the fact” variances is, to put simply, not a good fit for the neighborhood. Although part of the applicant’s parking lot is located in a commercial district, the majority of the applicant’s lot is surrounded by neighborhoods zoned Downtown Riverfront, Residential Apartment, Residential General, as well as Professional, all of which do not permit animated signs. In addition, of those zones which permit free standing signs (Professional and Downtown Riverfront), the maximum height is capped at 12 feet.

We do not want the 20’ ft pylon, we object to this. It is in excess of what is allowed, and is animated. We feel the applicant doesn’t meet the requirements as there is nothing unique about the property or the use. This will harm the Professional zone of the city.

The signs were not mentioned on the Special Exception application. Part of their parking is in the Commercial zone, most is in the Professional; they are bordered by DRD, RG, and other zones. The applicant could have attempted to re-zone this property but didn’t. They knew they needed these variances. They didn’t mention these when applying for the Special Exception and are now trying to get these in. Requirements for variances are strict.

The basic elements are the pylon, the use variance for animation and the square footage; this interferes with landowners use considering the unique setting. A sign in excess of 12 feet in height is not reasonable; 12 feet is fine. The building will be lit all night along by the sign itself. There is no unique setting in the environment that requires this large of a sign.

There are no special conditions for the area variance for the height of the sign. The benefits sought can be achieved by other methods, and the 12 ft of height is more than adequate here.

Don Flanders, Byse Insurance: He feels this is an improvement to the neighborhood; they had problems for a long time here. He thinks they have done a good job in that aspect for neighborhood. He has issues with the big sign. He is a small business man, and has to work hard to get business. He wants his sign to be visible, too. CVS has a built in sign which is their building itself. He doesn’t feel they need an electronic sign, and feels they should abide by the Professional zone standards. Abide by the height requirements. They do not need an electronic sign.

Mark Dadian said he wanted to add to what Don Flanders said. Yes, they need signage but 11 signs is a lot. He feels it cheapens the neighborhood and takes away from the existing business. This is very excessive signage.

P. Bordeau, in his closing comments, said he appreciates the difficult task before the board, but feels the requests are justified. He appreciates the fact that re-zoning could have been the path, but it wasn’t done. He feels this will enhance the property values here. This area of the city is going to give way to these types of businesses. This is a good thing.

S. Bogert closed the hearing to the public.

Board: R. Tautkus said there is public opposition. The size is an issue and there are no positives from the public. P. Lambert said he voted for the Special Exception. He knew CVS would have signage but thinks this is excessive. He asked if the sign were placed in the commercially zoned portion of the lot would this be an issue. S. Saunders said that in the Commercial zone, they would get 20 ft in height and 72 SF. P.

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Lambert said it wouldn't be an issue. He asked if this is internally lit and was told the large CVS ones are. Animated is not allowed in the Commercial zone. The signs with the 3 ft letters are internally lit. Everything reading CVS will be internally lit; the 3 marquee ones are not.

S. Bogert opened the hearing back up to the public.

P. Westergrin was asked if they are asking for variances for an animated sign; he said it is not animated, just changeable, and letters will be in red only. There won't be any movement to the sign. This can only change once an hour. These are not allowed in the Professional zone, just in the Commercial.

Mark Beaudoin asked if there will be light bulbs under the eaves lighting up the building and P. Westergrin said the lights are pointing toward the ground; these are downlit only. He said the lights are required to be bright enough for a customer to read their prescription so they can ensure it is proper. S. Saunders said that was asked that on the lighting plan, and they know there are certain lighting regulations to follow.

Mark Dadian asked if the lights are bright enough to read prescriptions, will they remain on all night or be shut off and was told whatever had been approved. S. Saunders said she was told all of the lights will shut down at the close of business; she thinks that closing is at 10 pm. M. Dadian asked where the other signs are located and was told there will be directional signs, 2 on Union Avenue and 4 on Church Street. He wondered why there are twice as many on Church Street. He looked at the sign plan and P. Bordeau showed locations and explained to M. Dadian.

S. Bogert closed the hearing to the public again.

Board: There were no further questions from the board. S. Bogert said he had formulated his own opinion and passed out a document to the board members to be read.

**Application # 2009-00017
Poyant Signs/ CVS**

**MSL # 428-220-5
220 Union Avenue**

**Professional (P) Zone
Use Variance**

The applicant is requesting a Use Variance from 235-58, Table of Sign Regulations, in order to install an animated sign on the site.

The motion to deny application # 2009-00017 was made by S. Bogert for the following reasons:

Application # 2009-00017, MSL # 428-220-5, 220 Union Avenue, Laconia, NH 03246

This is to certify that at the meeting held on July 20, 2009 the City of Laconia Zoning Board of Adjustment voted to **deny** your request for a Use Variance from 235-58, in order to install an animated sign on the site. An animated sign is not allowed in the P or in the C zone. The denial was based on the following criteria:

The applicant is requesting a Use Variance from 235-58, Table of Sign Regulations, in order to install an animated sign on the site.

The Variance will be contrary to the public interest. The applicant (CVS) was granted the privilege to operate a Pharmacy / store in the Professional Zone. The Professional Zone does not allow for the use of an animated sign. After an onsite visit of the area it was determined that this would deter from the character of the zone by changing the standard for which other Professional Business sought out in the placement of their business.

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Special Conditions Do Not Exist Such that the Literal Enforcement of the Ordinance would Result in the Unnecessary Hardship:

A zoning restriction as applied to their property interferes with their reasonable use of the property, considering the unique setting of the property in its environment. The property is located within the Professional Zone and the applicant was aware of this prior to purchasing and locating their business in this location. The Professional Zone does allow for signage that would identify the property. This is shown as Patrons are able to locate other business located within this zone using the current permitted sign ordinance. Therefore, the board has determined that, a zoning restriction as applied to their property does not interfere with their reasonable use of the property, considering the unique setting of the property in its environment.

A fair and substantial relationship does exist between the general purposes of the zoning ordinance and the specific restriction on the property as it is located in a Professional Zone where signage has been kept to a minimum. In the Master Plan (page 17, Goals, Objectives and Actions), the City of Laconia, chose to rename their "Land Use" section "Community Character". This reflects the fact that Laconia is, and seeks to remain, a tight-knit community focused on the individuals while supporting the sense of community that encompasses daily life. The City wants all land use to relate back to the character of the community as a whole.

The variance would injure the public or private rights of other. No other business within the Professional Zone has an animated sign. They have designed distinctive and tasteful signs that add to the character of the zone and to the community as a whole.

The variance is not consistent with the Spirit of the Ordinance. The Professional District is designed to provide attractive professional areas outside the retail commercial core. This district contemplates allowing professional office facilities to be located adjacent to the important access routes in reasonably close proximity to the higher-density residential zones, with minimal change to the outward physical appearance of the areas involved.

Substantial Justice will be done by denying this application, as to allow an animated sign in the Professional Zone would diminish the character of the overall zone, and encourage the proliferation of more animated signs in the Professional Zone.

The value of the surrounding properties could be diminished. If the value of a property is positively affected by the type of zoning it is located in, then one could conclude that the value of the property located in the Professional Zone could be diminished by the dilution of the zoning ordinance as it is applied to properties within the zone.

The motion was seconded by R. Tautkus. The vote was 3-0 in favor of denying the application.

**Application # 2009-00018
Poyant Signs/CVS**

**MSL # 428-220-5
220 Union Avenue**

**Professional (P) Zone
Use Variance**

The applicant is requesting a Use Variance from 235-58, Table of Sign Regulations, in order to install 3 marquee signs on the site.

The motion to deny application 2009-00018 was made by S. Bogert based on the following:

Application # 2009-00018, MSL # 428-220-5, 220 Union Avenue, Laconia, NH 03246

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This is to certify that at the meeting held on July 20, 2009 the City of Laconia Zoning Board of Adjustment voted to **deny** your request for a Use Variance from 235-58, in order to install three marquee signs on the site. Marquee signs are not permitted in the Professional Zone. The denial was based on the following criteria:

The applicant is requesting a Use Variance from 235-58, Table of Sign Regulations, in order to install 3 marquee signs on the site.

The Variance will be contrary to the Public Interest: As stated in the City of Laconia's Master Plan, (page 17, Goals, Objectives and Actions), The City of Laconia, chose to rename their "Land Use" section "Community Character". This reflects the fact that Laconia is, and seeks to remain, a tight-knit community focused on the individuals while supporting the sense of community that encompasses daily life. The City wants all land use to relate back to the character of the community as a whole. With this being stated review of 235-14.J, Districts established, Professional District is designed to provide attractive professional areas outside the retail commercial core. This district contemplates allowing professional office facilities to be located adjacent to the important access routes in reasonably close proximity to the higher-density residential zones, with minimal change to the outward physical appearance of the areas involved. Therefore, the approval of 3 marquee signs would be contrary to the Public Interest.

Special conditions exist such that the literal enforcement of the ordinance results in unnecessary hardship.

A zoning restriction as applied to their property interferes with their reasonable use of the property, considering the unique setting of the property in its environment. The property is located within the Professional Zone and the applicant was aware of this prior to purchasing and locating their business in this location. The Professional Zone does allow for signage that would identify the property. This is shown as Patrons are able to locate other business located within this zone using the current permitted sign ordinance. The marquee signs do not appear to provide driving directions, but are used for advertising the drive thru, as the applicant is providing 3 ground level directional signs for the safety of the drivers. Therefore, the board has determined that, a zoning restriction as applied to their property does not interfere with their reasonable use of the property, and there is no unique setting of the property in its environment.

No fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on a property. As stated in the, City of Laconia's Master Plan, (page 17, Goals, Objectives and Actions), the City of Laconia chose to rename their "Land Use" section "Community Character". This reflects the fact that Laconia is, and seeks to remain, a tight-knit community focused on the individuals while supporting the sense of community that encompasses daily life. The City wants all land use to relate back to the character of the community as a whole. With this being stated review of 235-14.J, Districts established, Professional District is designed to provide attractive professional areas outside the retail commercial core. This district contemplates allowing professional office facilities to be located adjacent to the important access routes in reasonably close proximity to the higher-density residential zones, with minimal change to the outward physical appearance of the areas involved. The board has determined that; a fair and substantial relationship does exist between the general purposes of the zoning ordinance and the specific restriction on a property.

The variance would not injure the public or private rights of others.

By allowing the 3 marquee signs, to be attached to the side of the building, would diminish the character of the Professional Zone, which could have an adverse affect of the investment in the

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other property within this zone. Therefore the Board has determined that approval of this variance would injure the private rights of others.

The variance is consistent with the spirit of the ordinance. As stated in the City of Laconia's Master Plan, (page 17, Goals, Objectives and Actions), The City of Laconia, chose to rename their "Land Use" section "Community Character". This reflects the fact that Laconia is, and seeks to remain, a tight-knit community focused on the individuals while supporting the sense of community that encompasses daily life. The City wants all land use to relate back to the character of the community as a whole. With this being stated review of 235-14.J, Districts established, Professional District is designed to provide attractive professional areas outside the retail commercial core. This district contemplates allowing professional office facilities to be located adjacent to the important access routes in reasonably close proximity to the higher-density residential zones, with minimal change to the outward physical appearance of the areas involved. The board has determined that the variance is not consistent with the spirit of the ordinance.

Substantial justice is done. The board has determined that by allowing 3 marquee signs in the Professional Zone would diminish the character of the overall zone, and encourage the proliferation of more marquee signs in the Professional Zone. Substantial Justice will be done by denying this application

No diminution in the value of surrounding properties. If the value of a property is positively affected by the type of zoning it is located in, then one could conclude that the value of the property located in the Professional Zone could be diminished by the dilution of the zoning ordinance as it is applied to properties within the zone.

The motion was seconded by R. Tautkus. The vote was 2-1, and the application was denied.

Application # 2009-00019	MSL # 428-220-5	Professional (P) Zone
Poyant Signs/ CVS	220 Union Avenue	Area Variance

The applicant is requesting a Use Variance from 235-58, Table of Sign Regulations, in order to allow the freestanding signs to exceed the allowed 12 ft height restriction.

The motion to deny application # 2009-00019 was made by S. Bogert for the following reasons:

Application # 2009-00019, MSL # 428-220-5, 220 Union Avenue, Laconia, NH 03246

This is to certify that at the meeting held on July 20, 2009 the City of Laconia Zoning Board of Adjustment voted to **deny** your request for an Area Variance from 235-58, in order to erect a freestanding sign that will be 20 feet in height. In the professional zone, the maximum allowed height is 12 ft. The denial was based on the following criteria:

The applicant is requesting an Area Variance from 235-58, Table of Sign Regulations, in order to erect a freestanding sign that will be 20 feet in height.

The Variance will be contrary to the Public Interest: As stated in the City of Laconia's Master Plan, (page 17, Goals, Objectives and Actions), the City of Laconia chose to rename their "Land Use" section "Community Character". This reflects the fact that Laconia is, and seeks to remain, a tight-knit community focused on the individuals while supporting the sense of community that encompasses daily life. The City wants all land use to relate back to the character of the community as a whole. With this being stated review of 235-14.J, Districts established, Professional District is designed to provide attractive professional areas outside the retail commercial core. This district contemplates allowing professional office facilities to be located adjacent to the important access

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routes in reasonably close proximity to the higher-density residential zones, with minimal change to the outward physical appearance of the areas involved. Therefore, the approval of 20 foot high freestanding sign would be contrary to the Public Interest.

Special conditions exist such that the literal enforcement of the ordinance results in unnecessary hardship.

An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property. The applicant states that a 20 foot freestanding sign is a matter of right; due, in part, by being allowed to operate CVS Pharmacy in the Professional Zone. If we look at the "Definitions and Word Usage", for Professional Office, "An office for any one of the following: accountant, architect, attorney, chiropractor, professional engineer, dentist, medical doctor, or any other similar profession for which at least a two-year degree is required. The board believes that Pharmacies would fall under this category, as the fulfillment of prescriptions is the main business and the retail portion secondary to the whole. The Professional Zone does allow for signage that would identify the property. This is shown as Patrons are able to locate other business located within this zone using the current permitted sign ordinance. Therefore, the board has determined that no special conditions exist for this property, and the current sign regulations will not interfere with the proposed use of the property.

Whether the benefit sought by the applicant can be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance, which includes consideration of whether the variance is necessary to avoid an undue financial burden on the owner. The board has determined that the variance is not necessary do in fact that the Professional Zone does allow for signage that would identify the property.

The variance is consistent with the spirit of the ordinance. As stated in the City of Laconia's Master Plan, (page 17, Goals, Objectives and Actions), the City of Laconia chose to rename their "Land Use" section "Community Character". This reflects the fact that Laconia is, and seeks to remain, a tight-knit community focused on the individuals while supporting the sense of community that encompasses daily life. The City wants all land use to relate back to the character of the community as a whole. With this being stated review of 235-14.J, Districts established, Professional District is designed to provide attractive professional areas outside the retail commercial core. This district contemplates allowing professional office facilities to be located adjacent to the important access routes in reasonably close proximity to the higher-density residential zones, with minimal change to the outward physical appearance of the areas involved. The board has determined that the variance is not consistent with the spirit of the ordinance.

Substantial justice is done. The board has determined that by allowing the 20 foot high sign in the Professional Zone would diminish the character of the overall zone, and encourage the proliferation of more signs in the Professional Zone. Substantial Justice will be done by denying this application

No diminution in the value of surrounding properties. If the value of a property is positively affected by the type of zoning it is located in, then one could conclude that the value of the property located in the Professional Zone could be diminished by the dilution of the zoning ordinance as it is applied to properties within the zone.

The motion was seconded by P. Lambert. The vote was 3-0 in favor of denying the application.

**Application # 2009-00020
Poyant Signs/CVS**

**MSL # 428-220-5
220 Union Avenue**

**Professional (P) Zone
Area Variance**

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The applicant is requesting an Area Variance from 235-58, Table of Sign Regulations, in order to allow one of the freestanding signs to exceed the allowed 24 sf ft.

The motion to deny application # 2009-00020 was made by S. Bogert for the following reasons:

Application # 2009-00020, MSL # 428-220-5, 220 Union Avenue, Laconia, NH 03246

This is to certify that at the meeting held on July 20, 2009 the City of Laconia Zoning Board of Adjustment voted to **deny** your request for an Area Variance from 235-58, in order to erect a freestanding sign with a total square footage of 59.95 square feet. This will exceed the 24 sf which is allowed in the Professional zone. The denial was based on the following criteria:

The applicant is requesting an Area Variance from 235-58, Table of Sign Regulations, in order to erect a freestanding sign with a total square footage of 59.95 square feet.

The Variance will be contrary to the Public Interest: As stated in the City of Laconia's Master Plan, (page 17, Goals, Objectives and Actions), the City of Laconia chose to rename their "Land Use" section "Community Character". This reflects the fact that Laconia is, and seeks to remain, a tight-knit community focused on the individuals while supporting the sense of community that encompasses daily life. The City wants all land use to relate back to the character of the community as a whole. With this being stated review of 235-14.J, Districts established, Professional District is designed to provide attractive professional areas outside the retail commercial core. This district contemplates allowing professional office facilities to be located adjacent to the important access routes in reasonably close proximity to the higher-density residential zones, with minimal change to the outward physical appearance of the areas involved. Therefore, the approval to allow one of the freestanding signs to exceed the allowed 24 sq ft would be contrary to the Public Interest.

Special conditions exist such that the literal enforcement of the ordinance results in unnecessary hardship.

An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property. The applicant states that a 24 sq ft foot freestanding sign is a matter of right; due, in part, by being allowed to operate CVS Pharmacy in the Professional Zone. If we look at the "Definitions and Word Usage", for Professional Office, "An office for any one of the following: accountant, architect, attorney, chiropractor, professional engineer, dentist, medical doctor, or any other similar profession for which at least a two-year degree is required. The board believes that Pharmacies would fall under this category, as the fulfillment of proscriptions is the main business and the retail portion secondary to the whole. The Professional Zone does allow for signage that would identify the property. This is shown as Patrons are able to locate other business located within this zone using the current permitted sign ordinance. Therefore, the board has determined that no special conditions exist for this property, and the current sign regulations will not interfere with the proposed use of the property.

Whether the benefit sought by the applicant can be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance, which includes consideration of whether the variance is necessary to avoid an undue financial burden on the owner. The board has determined that the variance is not necessary do in fact that the Professional Zone does allow for signage that would identify the property.

The variance is consistent with the spirit of the ordinance. As stated in the City of Laconia's Master Plan, (page 17, Goals, Objectives and Actions), The City of Laconia, chose to rename their

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“Land Use” section “Community Character”. This reflects the fact that Laconia is, and seeks to remain, a tight-knit community focused on the individuals while supporting the sense of community that encompasses daily life. The City wants all land use to relate back to the character of the community as a whole. With this being stated review of 235-14.J, Districts established, Professional District is designed to provide attractive professional areas outside the retail commercial core. This district contemplates allowing professional office facilities to be located adjacent to the important access routes in reasonably close proximity to the higher-density residential zones, with minimal change to the outward physical appearance of the areas involved. The board has determined that the variance is not consistent with the spirit of the ordinance.

Substantial justice is done. The board has determined that by allowing the 24 sq ft sign in the Professional Zone would diminish the character of the overall zone, and encourage the proliferation of more signs of this type in the Professional Zone. Substantial Justice will be done by denying this application

No diminution in the value of surrounding properties. If the value of a property is positively affected by the type of zoning it is located in, then one could conclude that the value of the property located in the Professional Zone could be diminished by the dilution of the zoning ordinance as it is applied to properties within the zone.

The motion was seconded by R. Tautkus and all voted in favor of denying the application, 3-0.

Application # 2009-00021	MSL # 428-220-5	Professional (P) Zone
Poyant Signs/ CVS	220 Union Avenue	Use Variance

The applicant is requesting a Use Variance from 235-58, Table of Sign Regulations, in order to install a total of 10 signs on the site; 2 are allowed per the ordinance.

The motion to deny application # 2009-00021 was made by S. Bogert for the following reasons:

Application # 2009-00021, MSL # 428-220-5, 220 Union Avenue, Laconia, NH 03246

This is to certify that at the meeting held on July 20, 2009 the City of Laconia Zoning Board of Adjustment voted to **deny** your request for a Use Variance from 235-58, in order to install a total of 10 signs on the site. Two signs are allowed in the Professional zone. The denial was based on the following criteria:

The applicant is requesting a Use Variance from 235-58, Table of Sign Regulations, in order to install a total of 10 signs on the site.

The Variance will be contrary to the Public Interest: As stated in the City of Laconia’s Master Plan, (page 17, Goals, Objectives and Actions), the City of Laconia chose to rename their “Land Use” section “Community Character”. This reflects the fact that Laconia is, and seeks to remain, a tight-knit community focused on the individuals while supporting the sense of community that encompasses daily life. The City wants all land use to relate back to the character of the community as a whole. With this being stated review of 235-14.J, Districts established, Professional District is designed to provide attractive professional areas outside the retail commercial core. This district contemplates allowing professional office facilities to be located adjacent to the important access routes in reasonably close proximity to the higher-density residential zones, with minimal change to the outward physical appearance of the areas involved. Therefore, the approval to allow 10 signs on this site would be contrary to the Public Interest.

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Special conditions exist such that the literal enforcement of the ordinance results in unnecessary hardship.

A zoning restriction as applied to their property interferes with their reasonable use of the property, considering the unique setting of the property in its environment. The property is located within the Professional Zone and the applicant was aware of this prior to purchasing and locating their business in this location. The Professional Zone does allow for signage that would identify the property. This is shown as Patrons are able to locate other business located within this zone using the current permitted sign ordinance. Therefore, the board has determined that, a zoning restriction as applied to their property does not interfere with their reasonable use of the property, and there is no unique setting of the property in its environment.

A fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on a property. As stated in the City of Laconia's Master Plan, (page 17, Goals, Objectives and Actions), the City of Laconia chose to rename their "Land Use" section "Community Character". This reflects the fact that Laconia is, and seeks to remain, a tight-knit community focused on the individuals while supporting the sense of community that encompasses daily life. The City wants all land use to relate back to the character of the community as a whole. With this being stated review of 235-14.J, Districts established, Professional District is designed to provide attractive professional areas outside the retail commercial core. This district contemplates allowing professional office facilities to be located adjacent to the important access routes in reasonably close proximity to the higher-density residential zones, with minimal change to the outward physical appearance of the areas involved. The board has determined that; a fair and substantial relationship does exist between the general purposes of the zoning ordinance and the specific restriction on a property.

The variance would injure the public or private rights of others: By allowing 10 signs on this site, signs would diminish the character of the Professional Zone, which could have an adverse affect of the investment in the other property within this zone. Therefore the Board has determined that approval of this variance would injure the private rights of others.

The variance is not consistent with the spirit of the ordinance. As stated in the City of Laconia's Master Plan, (page 17, Goals, Objectives and Actions), the City of Laconia chose to rename their "Land Use" section "Community Character". This reflects the fact that Laconia is, and seeks to remain, a tight-knit community focused on the individuals while supporting the sense of community that encompasses daily life. The City wants all land use to relate back to the character of the community as a whole. With this being stated review of 235-14.J, Districts established, Professional District is designed to provide attractive professional areas outside the retail commercial core. This district contemplates allowing professional office facilities to be located adjacent to the important access routes in reasonably close proximity to the higher-density residential zones, with minimal change to the outward physical appearance of the areas involved. The board has determined that the variance is not consistent with the spirit of the ordinance.

Substantial justice is done. The board has determined that by allowing 10 signs on this site within the Professional Zone would diminish the character of the overall zone, and encourage the proliferation of more signs in the Professional Zone. Substantial Justice will be done by denying this application

No diminution in the value of surrounding properties. If the value of a property is positively affected by the type of zoning it is located in, then one could conclude that the value of the property

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located in the Professional Zone could be diminished by the dilution of the zoning ordinance as it is applied to properties within the zone.

The second was made by R. Tautkus, and all voted in favor of denying this application, 3-0.

**Application # 2009-00022
Poyant Signs/CVS**

**MSL # 428-220-5
220 Union Avenue**

**Professional (P) Zone
Use Variance**

The applicant is requesting a Use Variance from 235-58, Table of Sign Regulations, in order to install a wall sign that exceeds the allowed area of 24 sf ft.

The motion to deny application # 2009-00022 was made by R. Tautkus for the following reasons:

Application # 2009-00022, MSL # 428-220-5, 220 Union Avenue, Laconia, NH 03246

This is to certify that at the meeting held on July 20, 2009 the City of Laconia Zoning Board of Adjustment voted to **deny** your request for a Use Variance from 235-58, in order to install a wall sign that will be 75.18 square feet. This will exceed the allowed sign area of 24 sf in the Professional zone. The denial was based on the following criteria:

The applicant is requesting a Use Variance from 235-58, Table of Sign Regulations, in order to install a wall sign that that will be 75.18 square feet.

The Variance will be contrary to the Public Interest: As stated in the City of Laconia’s Master Plan, (page 17, Goals, Objectives and Actions), the City of Laconia chose to rename their “Land Use” section “Community Character”. This reflects the fact that Laconia is, and seeks to remain, a tight-knit community focused on the individuals while supporting the sense of community that encompasses daily life. The City wants all land use to relate back to the character of the community as a whole. With this being stated review of 235-14.J, Districts established, Professional District is designed to provide attractive professional areas outside the retail commercial core. This district contemplates allowing professional office facilities to be located adjacent to the important access routes in reasonably close proximity to the higher-density residential zones, with minimal change to the outward physical appearance of the areas involved. Therefore, the approval, to allow a 24 sq ft sign on this site, would be contrary to the Public Interest.

Special conditions exist such that the literal enforcement of the ordinance results in unnecessary hardship.

A zoning restriction as applied to their property interferes with their reasonable use of the property, considering the unique setting of the property in its environment. The property is located within the Professional Zone and the applicant was aware of this prior to purchasing and locating their business in this location. The Professional Zone does allow for signage that would identify the property. This is shown as Patrons are able to locate other business located within this zone using the current permitted sign ordinance. Therefore, the board has determined that, a zoning restriction as applied to their property does not interfere with their reasonable use of the property, and there is no unique setting of the property in its environment.

A fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on a property. As stated in the, City of Laconia’s Master Plan, (page 17, Goals, Objectives and Actions), the City of Laconia chose to rename their “Land Use” section “Community Character”. This reflects the fact that Laconia is, and seeks to remain, a

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tight-knit community focused on the individuals while supporting the sense of community that encompasses daily life. The City wants all land use to relate back to the character of the community as a whole. With this being stated review of 235-14.J, Districts established, Professional District is designed to provide attractive professional areas outside the retail commercial core. This district contemplates allowing professional office facilities to be located adjacent to the important access routes in reasonably close proximity to the higher-density residential zones, with minimal change to the outward physical appearance of the areas involved. The board has determined that a fair and substantial relationship does exist between the general purposes of the zoning ordinance and the specific restriction on a property.

The variance would injure the public or private rights of others: By allowing a 24 sq ft sign on this site signs, would diminish the character of the Profession Zone, which could have an adverse affect of the investment in the other property within this zone. Therefore the Board has determined that approval of this variance would injure the private rights of others.

The variance is not consistent with the spirit of the ordinance. As stated in the, City of Laconia's Master Plan, (page 17, Goals, Objectives and Actions), the City of Laconia, chose to rename their "Land Use" section "Community Character". This reflects the fact that Laconia is, and seeks to remain, a tight-knit community focused on the individuals while supporting the sense of community that encompasses daily life. The City wants all land use to relate back to the character of the community as a whole. With this being stated review of 235-14.J, Districts established, Professional District is designed to provide attractive professional areas outside the retail commercial core. This district contemplates allowing professional office facilities to be located adjacent to the important access routes in reasonably close proximity to the higher-density residential zones, with minimal change to the outward physical appearance of the areas involved. The board has determined that the variance is not consistent with the spirit of the ordinance.

Substantial justice is done. The board has determined that by allowing a 24 sq ft sign on this site within the Professional Zone would diminish the character of the overall zone, and encourage the proliferation of more signs of this type in the Professional Zone. Substantial Justice will be done by denying this application.

No diminution in the value of surrounding properties. If the value of a property is positively affected by the type of zoning it is located in, then one could conclude that the value of the property located in the Professional Zone could be diminished by the dilution of the zoning ordinance as it is applied to properties within the zone.

The second was made by P. Lambert and all voted in favor of denial, 3-0.

**Application # 2009-00023
Poyant Signs/CVS**

**MSL # 428-220-5
220 Union Avenue**

**Professional (P) Zone
Use Variance**

The applicant is requesting a Use Variance from 235-58, Table of Sign Regulations, in order to install a wall sign that exceeds the allowed area of 24 sf ft.

The motion to deny application # 2009-00023 was made by R. Tautkus and will be based on the following:

Application # 2009-00023, MSL # 428-220-5, 220 Union Avenue, Laconia, NH 03246

This is to certify that at the meeting held on July 20, 2009 the City of Laconia Zoning Board of Adjustment voted to **deny** your request for a Use Variance from 235-58, in order to install a wall

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sign that will be 75.18 square feet. This will exceed the allowed sign area of 24 sf in the Professional zone. The denial was based on the following criteria:

The applicant is requesting a Use Variance from 235-58, Table of Sign Regulations, in order to install a wall sign that that will be 75.18 square feet.

The Variance will be contrary to the Public Interest: As stated in the City of Laconia's Master Plan, (page 17, Goals, Objectives and Actions), The City of Laconia, chose to rename their "Land Use" section "Community Character". This reflects the fact that Laconia is, and seeks to remain, a tight-knit community focused on the individuals while supporting the sense of community that encompasses daily life. The City wants all land use to relate back to the character of the community as a whole. With this being stated review of 235-14.J, Districts established, Professional District is designed to provide attractive professional areas outside the retail commercial core. This district contemplates allowing professional office facilities to be located adjacent to the important access routes in reasonably close proximity to the higher-density residential zones, with minimal change to the outward physical appearance of the areas involved. Therefore, the approval, to allow a 24 sq ft sign on this site, would be contrary to the Public Interest.

Special conditions exist such that the literal enforcement of the ordinance results in unnecessary hardship.

A zoning restriction as applied to their property interferes with their reasonable use of the property, considering the unique setting of the property in its environment. The property is located within the Professional Zone and the applicant was aware of this prior to purchasing and locating their business in this location. The Professional Zone does allow for signage that would identify the property. This is shown as Patrons are able to locate other business located within this zone using the current permitted sign ordinance. Therefore, the board has determined that, a zoning restriction as applied to their property does not interfere with their reasonable use of the property, and there is no unique setting of the property in its environment.

A fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on a property. As stated in the City of Laconia's Master Plan, (page 17, Goals, Objectives and Actions), The City of Laconia, chose to rename their "Land Use" section "Community Character". This reflects the fact that Laconia is, and seeks to remain, a tight-knit community focused on the individuals while supporting the sense of community that encompasses daily life. The City wants all land use to relate back to the character of the community as a whole. With this being stated review of 235-14.J, Districts established, Professional District is designed to provide attractive professional areas outside the retail commercial core. This district contemplates allowing professional office facilities to be located adjacent to the important access routes in reasonably close proximity to the higher-density residential zones, with minimal change to the outward physical appearance of the areas involved. The board has determined that; a fair and substantial relationship does exist between the general purposes of the zoning ordinance and the specific restriction on a property.

The variance would injure the public or private rights of others: By allowing a 24 sq ft sign on this site signs, would diminish the character of the Profession Zone, which could have an adverse affect of the investment in the other property within this zone. Therefore the Board has determined that approval of this variance would injure the private rights of others.

The variance is not consistent with the spirit of the ordinance. As stated in the City of Laconia's Master Plan, (page 17, Goals, Objectives and Actions), the City of Laconia chose to rename their "Land Use" section "Community Character". This reflects the fact that Laconia is, and seeks to

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remain, a tight-knit community focused on the individuals while supporting the sense of community that encompasses daily life. The City wants all land use to relate back to the character of the community as a whole. With this being stated review of 235-14.J, Districts established, Professional District is designed to provide attractive professional areas outside the retail commercial core. This district contemplates allowing professional office facilities to be located adjacent to the important access routes in reasonably close proximity to the higher-density residential zones, with minimal change to the outward physical appearance of the areas involved. The board has determined that the variance is not consistent with the spirit of the ordinance.

Substantial justice is done. The board has determined that by allowing a 24 sq ft sign on this site within the Professional Zone would diminish the character of the overall zone, and encourage the proliferation of more signs of this type in the Professional Zone. Substantial Justice will be done by denying this application.

No diminution in the value of surrounding properties. If the value of a property is positively affected by the type of zoning it is located in, then one could conclude that the value of the property located in the Professional Zone could be diminished by the dilution of the zoning ordinance as it is applied to properties within the zone.

The second was made by P. Lambert and all voted in favor of denial, 3-0.

Application # 2009-00024	MSL # 428-220-5	Professional (P) Zone
Poyant Signs/CVS	220 Union Avenue	Use Variance

The applicant is requesting a Use Variance from 235-58, Table of Sign Regulations, in order to install a wall sign that exceeds the allowed area of 24 sf ft.

The motion to deny application # 2009-00024 was made by R. Tautkus for the following reasons:

Application # 2009-00024, MSL # 428-220-5, 220 Union Avenue, Laconia, NH 03246

This is to certify that at the meeting held on July 20, 2009 the City of Laconia Zoning Board of Adjustment voted to **deny** your request for a Use Variance from 235-58, in order to install a wall sign that will be 33.41 square feet. This will exceed the allowed sign area of 24 sf in the Professional zone. The denial was based on the following criteria:

The applicant is requesting a Use Variance from 235-58, Table of Sign Regulations, in order to install a wall sign that that will be 75.18 square feet.

The Variance will be contrary to the Public Interest: As stated in the City of Laconia’s Master Plan, (page 17, Goals, Objectives and Actions), the City of Laconia chose to rename their “Land Use” section “Community Character”. This reflects the fact that Laconia is, and seeks to remain, a tight-knit community focused on the individuals while supporting the sense of community that encompasses daily life. The City wants all land use to relate back to the character of the community as a whole. With this being stated review of 235-14.J, Districts established, Professional District is designed to provide attractive professional areas outside the retail commercial core. This district contemplates allowing professional office facilities to be located adjacent to the important access routes in reasonably close proximity to the higher-density residential zones, with minimal change to the outward physical appearance of the areas involved. Therefore, the approval, to allow a 24 sq ft sign on this site, would be contrary to the Public Interest.

Special conditions exist such that the literal enforcement of the ordinance results in unnecessary hardship.

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A zoning restriction as applied to their property interferes with their reasonable use of the property, considering the unique setting of the property in its environment. The property is located within the Professional Zone and the applicant was aware of this prior to purchasing and locating their business in this location. The Professional Zone does allow for signage that would identify the property. This is shown as Patrons are able to locate other business located within this zone using the current permitted sign ordinance. Therefore, the board has determined that, a zoning restriction as applied to their property does not interfere with their reasonable use of the property, and there is no unique setting of the property in its environment.

A fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on a property. As stated in the, City of Laconia's Master Plan, (page 17, Goals, Objectives and Actions), the City of Laconia chose to rename their "Land Use" section "Community Character". This reflects the fact that Laconia is, and seeks to remain, a tight-knit community focused on the individuals while supporting the sense of community that encompasses daily life. The City wants all land use to relate back to the character of the community as a whole. With this being stated review of 235-14.J, Districts established, Professional District is designed to provide attractive professional areas outside the retail commercial core. This district contemplates allowing professional office facilities to be located adjacent to the important access routes in reasonably close proximity to the higher-density residential zones, with minimal change to the outward physical appearance of the areas involved. The board has determined that, a fair and substantial relationship does exist between the general purposes of the zoning ordinance and the specific restriction on a property.

The variance would injure the public or private rights of others: By allowing a 24 sq ft sign on this site signs, would diminish the character of the Profession Zone, which could have an adverse affect of the investment in the other property within this zone. Therefore the Board has determined that approval of this variance would injure the private rights of others.

The variance is not consistent with the spirit of the ordinance. As stated in the City of Laconia's Master Plan, (page 17, Goals, Objectives and Actions), The City of Laconia, chose to rename their "Land Use" section "Community Character". This reflects the fact that Laconia is, and seeks to remain, a tight-knit community focused on the individuals while supporting the sense of community that encompasses daily life. The City wants all land use to relate back to the character of the community as a whole. With this being stated review of 235-14.J, Districts established, Professional District is designed to provide attractive professional areas outside the retail commercial core. This district contemplates allowing professional office facilities to be located adjacent to the important access routes in reasonably close proximity to the higher-density residential zones, with minimal change to the outward physical appearance of the areas involved. The board has determined that the variance is not consistent with the spirit of the ordinance.

Substantial justice is done. The board has determined that by allowing a 24 sq ft sign on this site within the Professional Zone would diminish the character of the overall zone, and encourage the proliferation of more signs of this type in the Professional Zone. Substantial Justice will be done by denying this application.

No diminution in the value of surrounding properties. If the value of a property is positively affected by the type of zoning it is located in, then one could conclude that the value of the property located in the Professional Zone could be diminished by the dilution of the zoning ordinance as it is applied to properties within the zone.

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The second for the application was made by P. Lambert and all voted in favor of denial, 3-0.

**Application # 2009-00025
Poyant Signs/CVS**

**MSL # 428-220-5
220 Union Avenue**

**Professional (P) Zone
Area Variance**

The applicant is requesting an Area Variance from 235-58, Table of Sign Regulations, in order to allow the applicant to exceed the allowed 42 sf of signage in the zone. They are requesting a total of 238.54 sf.

The motion to deny application # 2009-00025 was made by R. Tautkus for the following reasons:

Application # 2009-00025, MSL # 428-220-5, 220 Union Avenue, Laconia, NH 03246

This is to certify that at the meeting held on July 20, 2009 the City of Laconia Zoning Board of Adjustment voted to **deny** your request for an Area Variance from 235-58, in order to install a total of 238.54 square feet of sign area. This exceeds the allowed 42 sf of signage in the Professional zone. The denial will be based on the following criteria:

The applicant is requesting a Area Variance from 235-58, Table of Sign Regulations, in order to install a total of 238.54 square feet of sign area

The Variance will be contrary to the Public Interest: As stated in the City of Laconia’s Master Plan, (page 17, Goals, Objectives and Actions), the City of Laconia chose to rename their “Land Use” section “Community Character”. This reflects the fact that Laconia is, and seeks to remain, a tight-knit community focused on the individuals while supporting the sense of community that encompasses daily life. The City wants all land use to relate back to the character of the community as a whole. With this being stated review of 235-14.J, Districts established, Professional District is designed to provide attractive professional areas outside the retail commercial core. This district contemplates allowing professional office facilities to be located adjacent to the important access routes in reasonably close proximity to the higher-density residential zones, with minimal change to the outward physical appearance of the areas involved. Therefore, the approval, to allow the applicant to exceed the 42 sq ft of signage on this site, would be contrary to the Public Interest.

Special conditions exist such that the literal enforcement of the ordinance results in unnecessary hardship.

An area variance is needed to enable the applicant’s proposed use of the property given the special conditions of the property. The applicant states that a 238.54 sq ft signage is a matter of right; due, in part, by being allowed to operate CVS Pharmacy in the Professional Zone. If we look at the “Definitions and Word Usage”, for Professional Office, “An office for any one of the following: accountant, architect, attorney, chiropractor, professional engineer, dentist, medical doctor, or any other similar profession for which at least a two-year degree is required. The board believes that Pharmacies would fall under this category, as the fulfillment of prescriptions is the main business and the retail portion secondary to the whole. The Professional Zone does allow for signage that would identify the property. This is shown as Patrons are able to locate other business located within this zone using the current permitted sign ordinance. Therefore, the board has determined that no special conditions exist for this property, and the current sign regulations will not interfere with the proposed use of the property.

Whether the benefit sought by the applicant can be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance, which includes consideration of whether the variance is necessary to avoid an undue financial burden on the owner. The board has determined that the variance is not necessary due in fact that the Professional Zone does allow for signage that would identify the property.

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The variance is consistent with the spirit of the ordinance. As stated in the, City of Laconia's Master Plan, (page 17, Goals, Objectives and Actions), the City of Laconia chose to rename their "Land Use" section "Community Character". This reflects the fact that Laconia is, and seeks to remain, a tight-knit community focused on the individuals while supporting the sense of community that encompasses daily life. The City wants all land use to relate back to the character of the community as a whole. With this being stated review of 235-14.J, Districts established, Professional District is designed to provide attractive professional areas outside the retail commercial core. This district contemplates allowing professional office facilities to be located adjacent to the important access routes in reasonably close proximity to the higher-density residential zones, with minimal change to the outward physical appearance of the areas involved. The board has determined that the variance is not consistent with the spirit of the ordinance.

Substantial justice is done. The board has determined that by allowing the 238.54 sq ft signage in the Professional Zone would diminish the character of the overall zone, and encourage the proliferation of more signs of this type in the Professional Zone. Substantial Justice will be done by denying this application

No diminution in the value of surrounding properties. If the value of a property is positively affected by the type of zoning it is located in, then one could conclude that the value of the property located in the Professional Zone could be diminished by the dilution of the zoning ordinance as it is applied to properties within the zone.

The second was made by S. Bogert, and all voted in favor of denying the application, 3-0.

NEW HEARINGS:

S. Bogert let the audience know that the next applicant would take some time and gave the applicants for Meredith Center Road and Court Street the choice of waiting until the August meeting or continuing on this evening, due to the lateness of the hour. The Meredith Center applicant, 2009-00031, decided to wait until the meeting of August 17th. The applicant for 343 Court Street, 2009-00032, decided to be heard this evening.

S. Bogert let the applicant know that he would open all of the applications, 2009-00026 – 2009-00030, at once, but that the determinations would be made separately.

Applicant: Rod Dyer appeared for the applicant. The firm is now Westcott, Dyer, Fitzgerald and Nichols. Also here this evening are Chris Duprey, the project manager for Meredith Bay; John Sokul, counsel for Meredith Bay; John Riordan, engineer; Laurie Rauseo, traffic engineer; and Catherine Broderick.

R. Dyer said the first lot is the one on Look-Off Rock, which is about 5 acres. This is located in the SFR, and they are proposing to place townhouse style condo units. These would be 3 multi family residences and they want to concentrate the dwellings within the 3 structures and not spread them around all over the site.

The purpose of this is for more efficient use of the land rather than having separate lots spread out over the property. Doing this preserves more undeveloped greenspace than would occur with single family lots. They feel this is in keeping with shoreland ordinances and the City's Master Plan.

This site had been approved as a multi unit housing project back in 1985. It was to have been 45 condos in 4 multi family structures. This proposal would conform to all zoning standards: green space, setbacks, etc.

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The use is authorized in the SFR in this chapter. This won't create undue traffic congestion or pedestrian safety issues. L. Rosseo, the traffic engineer, submitted her report which says this development won't create any undue traffic congestion or issues with pedestrian safety.

The proposal won't overload any public water, drainage, municipal systems or increase run off. They plan to extend the existing water and sewer so this would actually help the area. The extension would be about 600 ft.

The proposed use won't create excessive demands on fire, police, schools or solid waste. The use of multi family places few demands on these services as there are lots of second homes or older people whose families have left home. This would be a benefit to the community and is an increase to the tax base with little cost to municipal services. Russ Thibault did a study on this a few years ago. The City gets good revenue from this type of development.

Any special provisions for the use are fulfilled, if any exist.

The use won't create hazards to the health, safety or welfare of the public or be out of character with the neighborhood. The appearance should be a plus to the neighborhood and so should impact values in a positive manner. Roche Realty sent a letter on local real estate values. R. Dyer read a brief portion of the letter.

He said that the location is appropriate for the use. This is sloping terrain and there used to be a motel here; the foundations still exist on the property. There are good views of the lake from here. The maximum number of units they could have here are 29 units, dependant upon the site plan. That number would go down but not up.

This is consistent with the spirit of the master plan as they would be adding a quality development to the residential base. They feel this will benefit the community.

John Riordan, SGC Engineering: He stated that, from an engineering aspect, they are proposing something that is very doable. The plans are conceptual at this time. They first needed to come here to get the Special Exception before getting involved in any detailed plans. They feel they have located the primary entrance drive. They are looking at the access for utilities. They have found no substantial hurdles. Chris Duprey has met with the utility companies, and found no serious issues. The storm water management will emphasize the treatment of water.

Laurie Rauseo, the traffic engineer, concluded there are no major traffic issues or pedestrian concerns. She stated this all applies to both sides of the road.

Catherine Broderick addressed the special exception as relating to the westerly side of the road. They own 26 acres, which could support up to 156 units, so there is less site disturbance by consolidating and proposing 72 units in 3 buildings that would be 60 ft high, plus or minus.

On the variance application, they are seeking relief from the 35 ft height requirement. They submitted a detailed application. Their plan as proposed shows a smaller number of taller buildings, rather than asking for the larger number of buildings spread out over the lot.

John Riordan mentioned the topography and vegetation. He said the lot is quite steep in some locations which is one of the reasons why they want to develop it, for the view sheds. It would make practical sense to consolidate into fewer numbers of buildings. It is more desirable to consolidate into the 3 buildings. This

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provides a backdrop but doesn't impose on views. It also provides a nice view of the buildings from the lake.

He showed the lake view of the buildings. He said that parking will be contained underneath the building, to a great degree, which will aid in storm water management. By consolidating the parking, it will be less obtrusive to the landscape.

Catherine Broderick mentioned the special conditions. She said the steepness makes the variance request a lot of sense. Single family sites would require a lot of clear cutting. The costs of running utilities for only 3 buildings is much less than it would be for multi single family dwellings. The buildings don't impact view of others. They are located a fair distance from other residences, and will be consistent with the neighborhood, which is residential. Substantial justice is done as the building won't alter the residential quality of the neighborhood and property values won't be reduced.

J. Tivnan asked how many multi family units will be here and was told that they think 72, which is substantially less than what could be done. That brings the number of units into reasonable structures and allows all of the land to be developed in an orderly fashion, which is conducive to the environment, and good to the neighbors. C. Broderick said this is a responsible project. It meets the criteria of the Special Exception.

S. Saunders asked L. Rauseo if the traffic report looked at traffic on Scenic Road when it reaches the intersection of Rt 3 OR when traffic reaches Lakeside Ave and L. Rauseo said she didn't look at the intersections. One goes to Watson Road at Route 3 and she said she looked at the old counts but that can be discussed at the site plan level.

S. Bogert asked if the 156 units will be built out or will they stop at 72. R. Dyer said the plan for now is the 72. Chris Duprey said he doesn't envision ever this being at 156 but that they could request more at some time.

S. Bogert asked about the lots being linked together. J. Riordan spoke to the entrances. Each would require a separate entrance and all are located with good sight distance. S. Bogert asked if a topo map was supplied as other landowners will be overlooking this site. J. Riordan said his interpretation of the site is such that the topo works with the units.

Public: Faye Fagnant, owner of 476 Scenic Road, said she has a concern on the beach as she has deeded beach rights and asked if they would be interfering with those. R. Dyer said if they have rights, there shouldn't be an issue. F. Fagnant said this is a small beach.

R. Tautkus asked how many properties have deeded beach rights.

Barbara Leaver, 504 Scenic Road, said she has rights to the beach as well. C. Duprey said there are no amenities for these units being advertised yet but this should not affect their rights to the beach.

Russ Poirier, Cedar Lodge, said they have been a good neighbor, and they have no objections to the project, but he wants to know the building height elevation before approval. He is afraid of looking and seeing roof, or having a roof block his view. He has no issues with the density.

S. Bogert wanted to know if the board would be granting the Special Exception for the entire 156 units or just the 72. Dyer responded that at this time, only the 72. If they wanted to do more in the future, they would come back to the ZBA. S. Saunders asked if there would be more buildings than what is shown on the plan and the applicant answered, no not at this time.

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S. Perley asked why, on application 2009-00029, if this is located in the CR zone where multi family is permitted, why they filed an application and was told only a portion of the lot is in the CR zone, the remainder of the lot is in SFR.

S. Bogert asked why they were asking for the Special Exception for all three lots, when for the density they are requesting they only need the square footage of 2 of the lots. J. Riordan said for the contiguous lots, for the 72 units being proposed tonite, they can provide the needed acreage.

P. Lambert asked how much is over 15% slopes. R. Dyer asked if they could approve on the westerly side of the road and allow them to bring in a topo map so the board could defer the issue of slopes and height until then. He said a site visit might be warranted. S. Saunders said to the ZBA Board that she recommended they condition the density because without any attention to density, the applicant could add another 70 some units. J. Riordan said they want the multi family approval, not an approval for density. They don't know yet what the final height will be, and may have to go out, per C. Duprey, which is why they are including the third parcel in the Special Exception.

Vincent Mento, Cedar Lodge: He said he likes what they are doing at Brickyard and at the marina but he is concerned with the views here. In a previous application at the Planning Board for this site, the developer offered to sink the buildings. He asked if they could put up 2 balloons to show the proposed height. He said if they had received a copy of the plans they might be more willing to go along with this now.

R. Dyer told the board that he hopes they will grant the Special Exceptions this evening, and allow them to come in with the topographic maps so they will see the variance request for height is reasonable.

S. Bogert closed the hearing to the public.

D. Lasell said he is comfortable with the proposed use but feels they don't need to tie the lots together. S. Bogert asked S. Saunders on this and S. Saunders said if they grant the Special Exception, it is for the 156 units. Even though this applicant doesn't intend to do it, it goes with the property. It will be up to the Planning Board for final approvals. We are only granting the multi family use.

S. Bogert re-opened the hearing to the public.

John Sokul mentioned a new state statute. The Special Exception expires in 2 years if not used.

S. Bogert closed the hearing to the public at 11: 25 pm.

S. Perley said if we approve the multi family uses tonight we open this up for a much larger project. S. Saunders said this can be approved with a restriction to keep it to 72 units.

D. Lasell said he feels this is not really contiguous and S. Saunders said the land form, steep slopes and ledge, is an issue. The previous applications must have had reasons why greater density wouldn't work.

Motions: 2009-00026, 2009-00027, 2009-00028, 2009-00029

D. Lasell moved to approve all 4 of the applications for the Special Exception with the following criteria being met:

The use is authorized in the chapter. A traffic study was submitted which states there should be no issues with traffic congestion or impair pedestrian safety.

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The proposal won't overload water, or other municipal systems, nor create a significant increase in runoff to adjacent streets. This will be designed by an engineer in accordance with all requirements. The applicant is proposing to install an extension to water and sewer services.

The use won't create any excess demands for LPD, schools, fire, or solid waste. The applicant met with police and discussed the requirements they want to see in property development. Special provisions for the use are fulfilled, if any. This won't create any hazards to health, safety or welfare of the public. This will be in character with the neighborhood.

We heard testimony from adjoining property owners who have no issues with the proposal. This will need to be developed meeting all requirements of the Planning Board. The location is appropriate for the use. One lot was previously approved for development and had been a motel in the past. This is consistent with the spirit and intent of the chapter and Master Plan, which calls for varied development of housing. This fulfills those criteria.

(See the specific applications below for the seconds and final votes.)

**Application # 2009-00026
Akwa Vista LLC**

**MSL # 124-234-007
Scenic Road**

**SFR/SPOD Zones
Special Exception**

The applicant is requesting a Special Exception from 235-26, Table of Permitted Uses, in order to allow multi-family dwellings to be placed on the site.

2009-00026: The motion to approve the application was made by D. Lasell (see above) for the following reasons:

This is to certify that at the meeting held on July 20, 2009 the City of Laconia Zoning Board of Adjustment voted to **approve** your request for a Special Exception to allow the use of multi-family dwellings for Lot 7. The approval is based upon the following criteria:

- (a) The use requested is specifically authorized in this chapter.** The use of multi-family dwellings is authorized in the chapter with the granting of the Special Exception
- (b) The requested use will not create undue traffic congestion or unduly impair pedestrian safety.** A traffic report was submitted which states there should be no issues with traffic congestion or impair pedestrian safety in the area.
- (c) The requested use will not overload any public water, drainage or sewer system or any other municipal system, nor will there be any significant increase in storm water runoff onto adjacent property or streets.** The use will not overload water, or other municipal systems, nor create a significant increase in runoff to adjacent streets. This will be designed by an engineer in accordance with all requirements. The applicant is proposing to install an extension to the water and sewer services in the area.
- (d) The requested use will not create excessive demand for municipal police, fire protection, schools or solid waste disposal services.** The use won't create any excessive demands on fire, police, schools, or solid waste disposal. The applicant met with the Laconia Police Department and discussed the requirements they want to see in the property development.
- (e) Any special provisions for the use as set forth in this chapter are fulfilled.** Any special provisions for this use are fulfilled if, in fact, any exist.
- (f) The requested use will not create hazards to the health, safety or general welfare of the public nor be detrimental to the use of or out of character with the adjacent neighborhood.** The requested use won't create hazards to the health, safety or general welfare of the public nor be

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detrimental to the use of, or out of character with, the adjacent neighborhood. Adjoining property owners appeared and stated that they have no issues with the proposal.

(g) The proposed location is appropriate for the proposed use. The proposed location is appropriate for the use. One of the lots was previously approved for multi-family development, and had been a motel in the past.

(h) The requested use is consistent with the spirit and intent of this chapter and the Master Plan. The requested use is consistent with the spirit and intent of the chapter and of the Master Plan, which calls for varied development of housing.

The second was made by S. Perley. All voted in favor, 5-0.

**Application # 2009-00027
Akwa Waterfront LLC**

**MSL # 130-234-001
Scenic Road**

**SFR Zone
Special Exception**

The applicant is requesting a Special Exception from 235-26, Table of Permitted Uses, in order to allow multi-family dwellings to be placed on the site.

2009-00027: The motion to approve the application was made by D. Lasell (see above) for the following reasons:

This is to certify that at the meeting held on July 20, 2009 the City of Laconia Zoning Board of Adjustment voted to **approve** your request for a Special Exception to allow the use of multi-family dwellings for Map 120, Lot 1. The approval is based upon the following criteria:

- (a) The use requested is specifically authorized in this chapter.** The use of multi-family dwellings is authorized in the chapter with the granting of the Special Exception.
- (b) The requested use will not create undue traffic congestion or unduly impair pedestrian safety.** A traffic report was submitted which states there should be no issues with traffic congestion or impair pedestrian safety in the area.
- (c) The requested use will not overload any public water, drainage or sewer system or any other municipal system, nor will there be any significant increase in storm water runoff onto adjacent property or streets.** The use will not overload water, or other municipal systems, nor create a significant increase in runoff to adjacent streets. This will be designed by an engineer in accordance with all requirements. The applicant is proposing to install an extension to the water and sewer services in the area.
- (d) The requested use will not create excessive demand for municipal police, fire protection, schools or solid waste disposal services.** The use won't create any excessive demands on fire, police, schools, or solid waste disposal. The applicant met with the Laconia Police Department and discussed the requirements they want to see in the property development.
- (e) Any special provisions for the use as set forth in this chapter are fulfilled.** Any special provisions for this use are fulfilled if, in fact, any exist.
- (f) The requested use will not create hazards to the health, safety or general welfare of the public nor be detrimental to the use of or out of character with the adjacent neighborhood.** The requested use won't create hazards to the health, safety or general welfare of the public nor be detrimental to the use of, or out of character with, the adjacent neighborhood. Adjoining property owners appeared and stated that they have no issues with the proposal.
- (g) The proposed location is appropriate for the proposed use.** The proposed location is appropriate for the use. One of the lots was previously approved for multi-family development, and had been a motel in the past.

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(h) The requested use is consistent with the spirit and intent of this chapter and the Master Plan. The requested use is consistent with the spirit and intent of the chapter and of the Master Plan, which calls for varied development of housing.

The second was made by R. Tautkus. All voted in favor, 5-0.

**Application # 2009-00028
Akwa Village LLC**

**MSL # 124-234-003
Scenic Road**

**SFR Zone
Special Exception**

The applicant is requesting a Special Exception from 235-26, Table of Permitted Uses, in order to allow multi-family dwellings to be placed on the site.

2009-00028: The motion to approve the application was made by D. Lasell (see above) for the following reasons:

This is to certify that at the meeting held on July 20, 2009 the City of Laconia Zoning Board of Adjustment voted to **approve** your request for a Special Exception to allow the use of multi-family dwellings on Lot 3. The approval is based upon the following criteria:

- (a) The use requested is specifically authorized in this chapter.** The use of multi-family dwellings is authorized in the chapter with the granting of the Special Exception.
- (b) The requested use will not create undue traffic congestion or unduly impair pedestrian safety.** A traffic report was submitted which states there should be no issues with traffic congestion or impair pedestrian safety in the area.
- (c) The requested use will not overload any public water, drainage or sewer system or any other municipal system, nor will there be any significant increase in storm water runoff onto adjacent property or streets.** The use will not overload water, or other municipal systems, nor create a significant increase in runoff to adjacent streets. This will be designed by an engineer in accordance with all requirements. The applicant is proposing to install an extension to the water and sewer services in the area.
- (d) The requested use will not create excessive demand for municipal police, fire protection, schools or solid waste disposal services.** The use won't create any excessive demands on fire, police, schools, or solid waste disposal. The applicant met with the Laconia Police Department and discussed the requirements they want to see in the property development.
- (e) Any special provisions for the use as set forth in this chapter are fulfilled.** Any special provisions for this use are fulfilled if, in fact, any exist.
- (f) The requested use will not create hazards to the health, safety or general welfare of the public nor be detrimental to the use of or out of character with the adjacent neighborhood.** The requested use won't create hazards to the health, safety or general welfare of the public nor be detrimental to the use of, or out of character with, the adjacent neighborhood. Adjoining property owners appeared and stated that they have no issues with the proposal.
- (g) The proposed location is appropriate for the proposed use.** The proposed location is appropriate for the use. One of the lots was previously approved for multi-family development, and had been a motel in the past.
- (h) The requested use is consistent with the spirit and intent of this chapter and the Master Plan.** The requested use is consistent with the spirit and intent of the chapter and of the Master Plan, which calls for varied development of housing.

The second was made by P. Lambert All voted in favor, 5-0.

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**Application # 2009-00029
Akwa Vista LLC**

**MSL # 117-234-001
Scenic Road**

**CR Zone
Special Exception**

The applicant is requesting a Special Exception from 235-26, Table of Permitted Uses, in order to allow multi-family dwellings to be placed on the site.

2009-00029: The motion to approve the application was made by D. Lasell (see above) for the following reasons:

This is to certify that at the meeting held on July 20, 2009 the City of Laconia Zoning Board of Adjustment voted to **approve** your request for a Special Exception to allow the use of multi-family dwellings for Map 117, Lot 1. The approval is based upon the following criteria:

- (a) The use requested is specifically authorized in this chapter.** The use of multi-family dwellings is authorized in the chapter with the granting of the Special Exception.
- (b) The requested use will not create undue traffic congestion or unduly impair pedestrian safety.** A traffic report was submitted which states there should be no issues with traffic congestion or impair pedestrian safety in the area.
- (c) The requested use will not overload any public water, drainage or sewer system or any other municipal system, nor will there be any significant increase in storm water runoff onto adjacent property or streets.** The use will not overload water, or other municipal systems, nor create a significant increase in runoff to adjacent streets. This will be designed by an engineer in accordance with all requirements. The applicant is proposing to install an extension to the water and sewer services in the area.
- (d) The requested use will not create excessive demand for municipal police, fire protection, schools or solid waste disposal services.** The use won't create any excessive demands on fire, police, schools, or solid waste disposal. The applicant met with the Laconia Police Department and discussed the requirements they want to see in the property development.
- (e) Any special provisions for the use as set forth in this chapter are fulfilled.** Any special provisions for this use are fulfilled if, in fact, any exist.
- (f) The requested use will not create hazards to the health, safety or general welfare of the public nor be detrimental to the use of or out of character with the adjacent neighborhood.** The requested use won't create hazards to the health, safety or general welfare of the public nor be detrimental to the use of, or out of character with, the adjacent neighborhood. Adjoining property owners appeared and stated that they have no issues with the proposal.
- (g) The proposed location is appropriate for the proposed use.** The proposed location is appropriate for the use. One of the lots was previously approved for multi-family development, and had been a motel in the past.
- (h) The requested use is consistent with the spirit and intent of this chapter and the Master Plan.** The requested use is consistent with the spirit and intent of the chapter and of the Master Plan, which calls for varied development of housing.

The second was made by S. Perley. All voted in favor, 5-0.

**Application # 2009-00030
Akwa Waterfront LLC**

**MSL # 130-234-001
Scenic Road**

**SFR Zone
Area Variance**

The applicant is requesting an Area Variance from 235-37, Building Height, in order to allow the building height to exceed the 35' which is allowed in the zone.

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Motion: S. Bogert made the motion to continue this application until the meeting of August 17th in order to allow the applicant time to get together a topo map. R. Tautkus said a site visit had been mentioned earlier and asked if the board was planning that; it was determined it would not be needed. R. Dyer said they would try to get the required information in time for the August meeting and, if needed, would ask for a continuation until September 21.

The second was made by R. Tautkus and all voted in favor of continuing, the application, 5-0.

The hearing for the Scenic Road applications was over at 11:45 pm.

Application # 2009-00031

MSL # 10-153-4

RRII Zone

D. & J. LaFond

1393 Meredith Center Rd

Use Variance

The applicant is seeking a Use Variance from 235-35 (A) in order to erect a storage shed. The property has 2 frontages; the frontage in this Zone is 75'.

Applicant: The applicant decided to be heard at the meeting of August 17th due to the late hour. They will be placed first on the agenda.

Application # 2009-00032

MSL # 454-54-5

DRD Zone

B. Flanders/Eased Edges

343 Court St

Use Variance

The applicant is seeking a Use Variance from 235-28, Table of Permitted uses, in order to display sheds, play sets, and gazebos in a portion of the parking area; this is considered outdoor storage.

Applicant: Brian Flanders appeared. He is renting 343 Court, which was Cheapo Depot. He needs a Use Variance to allow a portion of the parking area to be used for outdoor display area for sheds, play sets, and gazebos. He is adding stoves to his inventory. No Budget Trucks will be here. He showed examples of what he would be displaying.

He said this is a reasonable use. The business is in the Downtown Riverfront but there are Commercial uses here. He has 5 abutters and 3 are zoned Commercial. The use is allowed in the Commercial zone.

He said he doesn't feel that this is really outdoor storage. He thinks of that use as something more like a lumber yard, or items like that. He told the board that even the Planning Director, S. Saunders, wasn't clear on the use. The only place these items could be stored is outdoors. The sheds are storage units, and he has a large warehouse for the inventory needs. This is just display.

There will be no harm to the public as this is a good fit for the area, as there are many commercial properties here. This should be a major visual improvement to the site; they are already working on the building. The structures will be nice looking as opposed to the rental trucks and no fluids will be leaked. This won't be contrary to public interest as this is a major corridor into the city and they will try to look appealing to people entering the city. He feels this is a major upgrade from what is currently there.

He showed the area he wants to use. He will maintain parking on both sides of the area. He stated he is trying to protect the lake and riverfront and by removing trucks that could potentially leak fluids, this is a better use of the property. Substantial justice is done. He discussed this with Steve Weeks and Tire Warehouse, and they are both happy they are moving into the building. He won't need as much parking, so the space would be underutilized. No property values would be diminished, as he is upgrading the use and the property itself which will help the surrounding properties. If there are objections, he doesn't mind a restriction from metal sheds.

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S. Bogert asked how many displays and B. Flanders said they vary in size. An agreement was made on the number of trucks which could be stored here, and that was violated. B. Flanders said his displays would rotate, vary in size, and be about 10-15 in number. He showed employee and overflow parking. He would still maintain 17 parking spaces. P. Lambert asked the dimensions of the area he wants to use and was told it is approximately 50 x 60 or 70 ft.

S. Perley asked if the displays will be right on the existing parking area and was told yes, no pavement is to be removed. The units can be picked up and moved around. B. Flanders said if there are restrictions he would rather have it to the area and not the number. P. Lambert scaled the area and said he thinks it is 50 x 75 ft. B. Flanders said if he has larger units he just could not display as many. S. Saunders asked if he was using his temporary approval to put units outside and move them in at night and he said no, Cheapo Depot is still in the warehouse but would hopefully be out tonight.

All of the items are built in Pennsylvania not on site. The hearth store is in front, and the warehouse will store inventory. They have plenty of warehouse space inside. D. Lasell asked for the dimensions of the area and was told the showroom is about 2700 SF and the warehouse about 6100 SF.

S. Saunders said B. Flanders had talked about some sort of roping for display area and S. Bogert said he feels it is better to place a white line around the area so he knows where to stay inside. B. Flanders said there are yellow parking lines but can place those with the white lines for the display area.

Public: No one spoke for or against the application.

Motion: P. Lambert moved to approve the use variance for 2009-00032 in order to allow outdoor storage in a portion of the parking area at 343 Court Street. This is a unique setting; the type of business the applicant intends on running does need the display of wares, and the only place to put this is outdoors. The ordinance and restriction speaks for itself. This won't injure public or private rights and is a benefit considering where the property is located and is a better use than the truck rental was. This won't be contrary to public interest as this is a commercial operation, and they are enhancing the property. This will benefit the abutters over what was there. This proposal is consistent with the spirit of the ordinance as they will be minimizing the impact for the area. Substantial justice is done as the business owner can conduct business. This won't diminish property values. The area affected will be kept to the center of the parking lot, will be 50 x 75, and is to be marked in white paint.

The approval will be based on the following criteria:

(a) Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship.

1. The zoning restriction as applied interferes with a landowner's reasonable use of the property, considering the unique setting of the property in its environment. This is a unique setting; the type of business the applicant intends to run does need the display of his wares and the only location is to place them outdoors.

ii. No fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property; No fair and substantial relationship exists between the ordinance and this restriction; **AND**

iii. The variance would not injure the public or private rights of others; This will not injure the public or private rights of others and will be a benefit considering the location of the property and is a better use than the previous one; **AND**

(b) The variance will not be contrary to the public interest; While no one appeared to speak for or against the application, the applicant indicated that he spoke with abutters and that they were in favor of the proposal; **AND**

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(c) The variance is consistent with the spirit of the ordinance; The applicant will be minimizing the area of impact; **AND**

(d) Substantial justice is done; This proposal will allow the business owner to conduct his business in a previously established fashion; **AND**

(e) The value of surrounding properties will not be diminished; The values of surrounding properties will not be diminished. The applicant has removed the rental truck use and is improving both inside and outside of the property.

The board also placed two additional conditions to the approval:

1) The outdoor display area shall be limited to an area 50 x 75 feet.

2) The outdoor display area shall be delineated by white paint.

The second was made by R. Tautkus. All voted in favor of approval, 5-0.

NEW BUSINESS: P. Lambert moved to set a 10 pm deadline for future meetings per the previous board discussion. It was agreed that no new applications will be opened after the 10 pm deadline.

R. Tautkus seconded, with all voting in favor of approval, 5-0. The ZBA Rules of Procedure will be amended to reflect this change.

S. Bogert reminded the board members to keep their paperwork for the next meeting.

OLD BUSINESS: None

MINUTES: The minutes from the ZBA meeting of June 15, 2009 will be reviewed at the August 17th meeting.

ADJOURNMENT: The motion to adjourn was made by S. Perley with R. Tautkus seconding. All voted in favor, 5-0, and the meeting adjourned at 12:15 pm.

Submitted by:

Kristine Y. Snow, Zoning Technician