



**ZONING BOARD OF ADJUSTMENT**  
**MINUTES OF MEETING OCTOBER 18, 2010**  
**APPROVED BY THE BOARD NOVEMBER 15, 2010**

**Present:** S. Bogert, **Chairman;** S. Perley, **Vice Chairman;** D. Greski; Jay Tivnan, **Alternate**

**Absent:** R. Tautkus, O. Gibbs

**Staff:** S. Saunders, **Planning Director;** K. Snow, **Zoning Technician**

S. Bogert called the meeting to order at 7 pm. S. Bogert asked if O. Gibbs had been sworn in as a full Board member and K. Snow stated that she had. In her absence, J. Tivnan was seated as a full Board member for the evening.

**HEARINGS: (Continued)**

S. Bogert explained that when the application was originally heard there were 4 Board members. Tonight only 3 of the 4 members present can sit on the hearing, as one of the members was not present for the original hearing. He explained what that means for voting purposes. He let the applicant know that they can either be heard tonight or wait until the next meeting in November.

The short Board would also apply to the second application as well.

The applicants for Laconia Refrigeration stated that they would prefer to be heard this evening.

R. Dyer stated that his applicant would prefer to wait until the November meeting to be heard by the full Board.

**Application # 2010-0018**

**MSL # 407-227-50**

**C Zone**

**Laconia Refrigeration**

**11 Walker Street**

**Variance**

The applicant is requesting a variance from 235-58 (B) and 235-58 (A), Table VI, Table of Sign Requirements, in order to erect a second free-standing sign on the site at 11 Walker Street and to allow an additional 8 Sq Ft of signage on the property. The site is currently grandfathered for signage and is over the allowed 90 SF in the Commercial Zone. This would give them a total of 113 Sq Ft of signage and the additional free-standing sign.

S. Saunders went over the history of the site. She said the Planning Department had received an Administrative Approval for the use. She said she has not yet approved it for the use of the refrigeration business and the apartment, which was never submitted in the past. The storage must be screened. She went over the parking. She said they need 19 spaces and we measured out that 19 will fit on this lot. She let the board members know that the plan submitted previously, for the location of the signs, would show where the parking is located as well.

She went over the parking issues, the screened storage, and also the loading as approval conditions. She determined that the loading would be done only during business hours. S. Saunders stated that loading is an issue throughout the city, and that we work with business owners when we can. S. Saunders said the document she is reading from is a draft, and she will be issuing the approval shortly.

S. Bogert asked if this area is zoned to allow the apartment and S. Saunders said yes, mixed use is allowed in the Commercial Zone. S. Bogert asked if the apartment was not originally approved, was a building permit pulled and was it built to code and S. Saunders said we are holding the building permit now, based on the outcome of the Administrative Approval. The owner has applied for a retroactive building permit.

S. Saunders said that the first application we had for signs was submitted in 2005 from Lakes Region Auto Body. We worked with the applicant at that time, as he was over what was permitted in the zone. The property has 60' of frontage, and in the Commercial Zone you are allowed 1.5 times frontage of property in sq ft of signs. This property can have 90 sf. The way the ordinance is written the maximum is for the lot. Each business can have 3 signs but the total should add to 90 sq ft. In 2005 this was approved for 2 signs, one on the building, and a freestanding sign.

The refrigeration business submitted an application for 3 signs, one of which included replacing a Lake City Autobody sign which was put up illegally. Laconia Refrigeration took that spot, which was the same sq footage, but they cannot do that as the sign they replaced was never a permitted one. They would still be over the sq ft that was allowed. This moves the overage of 8 sq ft to 23 sq ft so they still need 2 variances. They would require 23 sq ft over the allowed 90 sq ft and the second freestanding sign. S. Bogert clarified that the entire lot is allowed 90 sq ft and S. Saunders replied yes.

She said the sign now there is 32 sq ft. This 32 sq ft now needs to be included in the variance they are asking for. The 8 sq ft is for the freestanding sign which brings the total to 113 sq ft minus the 90sq ft that is allowed so they need approval for 23 sq ft. The second variance is for the second freestanding sign.

S. Perley said that confuses things; if the freestanding sign is denied, can we amend the proposal for the overall square footage. If the freestanding is denied it would be 15 sq ft over, not the 23 sq ft.

J. Tivnan said he had a question regarding what S. Saunders had stated regarding the parking, and was told this is not part of the sign process but he can ask the question in a bit.

**Applicant:** Steve and Kara Olsen appeared for the application. S. Olsen said that the yellow sign was 32 sq ft, and they took that down and replaced with their own 32 sq ft sign. They were not aware that the business did not have a permit for that sign. K. Olsen said it was up for some time so when the question came up they thought it would be grandfathered anyway.

S. Olsen said that Lake City Autobody has the front portion and Laconic Refrigeration now occupy the back half of the building. They want to install an 8 ft freestanding sign, with their name and an arrow, to point people to their office door. K. Olsen said the outline of the proposed sign is shown on the picture they submitted so the board members will know where the sign will be located. She said it is hard to conduct business when people cannot find your location.

K. Olsen stated that they never intended to hurt anyone around them, that they work hard to keep things neat and clean, and never had any complaints in their previous location. She stated that they support a lot of families who work for them. She said the proposed sign is located in a buffered area. People go to Lakes City Autobody, but if they are closed they cannot find them.

S. Perley asked what the yellow sign is made from and S. Olsen said it is plywood encased in metal, with vinyl lettering. S. Perley asked if they can re-do that sign with an arrow, saying the business is located in the rear of the building. K. Olsen said they thought about an arrow but depending on which way you are coming, it doesn't work. She said if they can get away without a sign they would, as signs are not cheap, so they would rather not buy a sign but it is needed.

D. Greski suggested taking the freestanding sign, making it bigger and removing the yellow one on the wall. The Olsen's said that people still are not finding the location with the yellow sign so they don't think removing that one is a good idea. K. Olsen said they went with the 8 sq ft as that was all they could have. If they replace that freestanding sign, they would want a bigger one with the company information. She said if they were allowed a larger sign at the entrance, it would be great.

S. Olsen said people going down Walker Street see the sign and go to the Auto Body, then have to back out into traffic and go to the proper location. They need a way to get people from Walker Street to their door and they are open to suggestions. He said they are willing to work with the board to find a way.

S. Perley said she has an issue with the freestanding sign and the increase in signage now and again mentioned doing something with the yellow sign. K. Olsen said that they had no idea that there were issues with the property when they signed the lease, and they feel they are being punished for the owner's mis-deeds. S. Olsen said they would be under the allowed square footage if they removed the yellow sign. S. Bogert said what about adding another line to the yellow sign, stating the entrance is located in the back. That sign is visible per S. Bogert.

S. Perley said she drove by the business several times today, and there were several business trucks parked there so it was obvious to her where they were located. K. Olsen said that is hit or miss; sometimes the trucks are there, and sometimes not.

### **S. Bogert opened the hearing to the public.**

**Public: Matt Lahey**, resident of Cottonwood Avenue: He submitted photographs and asked S. Saunders which sign was illegal and she explained. He showed the pictures with signage and S. Saunders said she was surprised at what she saw as Lakes City has applied for a new sign, which they have apparently already put up.

M. Lahey said the proposed freestanding sign would be located within the 10 ft setback. He said the applicant is requesting the wall sign and a freestanding sign and he asked about placement as 235-57 (D) talks about placement above the sills of the windows above the first story of a building. S. Bogert said it talks about above the sills of the windows, and there aren't any windows. S. Saunders said she feels that has to do with blocking the window itself, like on Main Street, where there are living units above, and they don't want signage to block the windows of any unit above it.

M. Lahey asked about the storage units, and if the Planning Department would be allowing outside storage. He said that storage would be occupying a number of the parking spots. S. Saunders told him no, the outside storage will be moved into the storage containers.

He asked if junk cars are allowed to be parked here and S. Saunders said that 11 of those spaces are for the auto business but he cannot store cars there long term. M. Lahey said between air conditioners on the ground, trailers, and junk cars, there is almost no parking now. They are parking in what is the center lane.

M. Lahey asked about loading and if that is being done on the property. S. Saunders said yes, to the best of their ability. M. Lahey said they are parking in the street to unload. S. Bogert asked why other businesses can off load in the street - for example car dealers along Union Avenue and other businesses - why this would apply to one business and not the other.

M. Lahey said he can answer that; the businesses are grandfathered. The Galley does it now but this has been there for a long time. This used to be Taylor Home storage, and the uses changed along the way.

S. Saunders said she would like to answer because it is her job to interpret the zoning ordinance.. She said when a new project comes in the loading is to be designed per the ordinance. 235-45 (C) states that changes in existing buildings in commercial districts that do not result in an increase in the total gross floor area of the building does not need to be changed and develop additional areas. She said this happens all the time across the city. If we receive a complaint we try to work with the business owners. Per 235-30, multiple uses of the property are permitted provided other provisions are met. She said they must comply with the ordinance but this is a case where we have two parts of the ordinance that don't jive, but this is how it has traditionally been interpreted.

**Cheryl Weeks**, of 38 Walker Street, said she comes and goes on Butler Street, which is on the corner. She said she hasn't seen the signage up close but is concerned about blockage of view. If you are coming down Butler

there is a stop sign, with lots going on, and you cannot see traffic approaching. C. Weeks said she has traffic concerns.

**Jane MacFadzen**, 43 Walker Street, said she has been here for 27 years. When she steps off her front porch she now sees a lot of activity and large trucks. There was a tractor trailer backing in today, and it took up a lot of Walker Street. This has been a residential area for a long time. She said she is all for new businesses, but about 20 feet away from this you find kids, dogs, the Taylor Home, and a bus stop. She said that kids walk up Walker Street and the high school students cut up Cottonwood through the Taylor Home. She said she has a concern with the large trucks. She asked about the 5 spaces S. Saunders mentioned in front of building and S. Saunders said no, they are all within the parking lot. S. Saunders showed where those 5 spaces she mentioned are located.

J. MacFadzen said she has a concern with vehicles parking 2-3 deep. She said that a business does need a sign to show where they are but that this is not a retail store so most people won't be driving by and just decide to drop in. She said there is a sign on the building now and how many do they need. The Lakes City sign is lit now.

**S. Bogert closed the hearing to the public at 7:50 pm.**

**Applicant:** K. Olsen thanked the public for their input. She said that after hearing their comments, she can see their concerns. They were unaware there was a bus stop in this area and they will talk with their employees and make sure they are aware of that. They will let any delivery people know that as well. They are aware that there are residences here, but said they can't take care of things if they aren't aware of them.

K. Olsen said she had not had an opportunity to meet M. Lahey before and would like to introduce herself and he said not to speak to him directly, to speak to the board only. S. Bogert agreed that is the proper procedure to follow.

S. Olsen said he is unsure of what the city had been aware of in the past on the use of this property but doesn't feel that they have any more deliveries here than with other businesses in the city. He said they will do their best to minimize the delivery end of things but that we need to focus on the signage here. They don't want to make the neighbors unhappy and they can modify their application if the board can make suggestions.

J. Tivnan suggested moving the yellow sign over the bays, with an arrow, or the freestanding sign. If they move the yellow sign, they would have 17 sq ft to work with. S. Perley suggested keeping the yellow sign, and adding to it. S. Olsen said they are here this evening to work with the board and any suggestions are helpful.

S. Bogert said he has a feeling that the freestanding sign won't pass but there is an opportunity to work with the other sign and modify that. S. Perley suggested that they re-do the yellow sign. K. Olsen asked about the grandfathering of the sign and S. Saunders said that the grandfathering must predate the ordinance. S. Saunders said the 2 businesses here could re-negotiate the signage. D. Greski said he feels the yellow one should stay and be added to somehow to indicate the business is located in the back of the building.

S. Saunders said where the circle is located on the sign something could be added to indicate the business is located in the rear of the building. The Olsen's said they came in with an open mind, and if that is the option, they would be open to that. The sq footage would be 105 sq ft, which is over what is allowed, and they would work with that.

J. Tivnan asked about the 19 parking spaces as he said the map shows 18 and S. Saunders explained where the 19<sup>th</sup> space is located.

S. Bogert closed the hearing and asked the board if there were any other questions.

**Board:** S. Perley asked for clarification on the variance request. S. Saunders said to vote on both requests. The board can either deny or dismiss without prejudice. S. Perley said there is only one application number and S. Saunders said she thinks safest thing to do is table the application until the November meeting to allow the applicant time to amend the application as she wouldn't want to see this appealed on a technicality.

S. Bogert asked about re-noticing the application and S. Saunders said she feels that should be done.

S. Bogert asked the applicant if they were agreeable with this being tabled until the November meeting and they said they were all right with that.

**Motion:** S. Perley moved to continue to allow the applicant time to amend the application. J. Tivnan seconded and all voted in favor of tabling the application until the November 15 meeting.

**HEARINGS: (New)**

**Application # 2010-0022**  
**John & Jacqueline Remington**

**MSL # 152-200-40**  
**61 Pendleton Road**

**SFR Zone**  
**Variance**

The applicant is requesting a variance from 235-19 (F) (2) (b) in order to construct a two story single family home on an existing foundation. The overall footprint for the house will be diminished.

Discussion was held on if this application should be continued, as it was not opened or just tabled, and S. Saunders said she feels it should be tabled.

**Motion:** S. Perley moved to table application 2010-0022 until the meeting of November 15 so a full board would be able to hear it. J. Tivnan seconded and all voted in favor of tabling the application, 4-0.

D. Greski said he had a difficult time finding the property on Pendleton Road and S. Perley said she did as well. It is a dirt road and she ended up backing out as she was unsure if she was in the right location or not. They asked S. Smith if they could get pictures of the site and he said he would submit them to the department.

**OTHER BUSINESS:** S. Perley mentioned that she had read there were some changes recently made to the ordinance and asked if the board members would get the revisions. S. Saunders said that as soon as they are available the Board members would receive those.

S. Saunders let the Board members know that there will be a hearing on the future use of the prison site on October 28, at the Middle School, from 6 – 8 pm. There will be presentations by consultants.

**MINUTES: July:** The minutes from the meeting of September 20, 2010 were discussed and S. Perley made one correction. S. Perley moved to approve the amended minutes with the second by D. Greski. All voted in favor of approving the amended minutes, 4-0.

**ADJOURNMENT:** The motion to adjourn was made by S. Bogert and seconded by D. Greski. All voted in favor, 4-0, and the meeting adjourned at 8:20 pm.

Kristine Y Snow  
Zoning Technician