



**ZONING BOARD OF ADJUSTMENT**  
**MINUTES OF MEETING SEPTEMBER 20, 2010**  
**APPROVED AT MEETING OF OCTOBER 18, 2010**

**Present:** S. Bogert, **Chairman**; S. Perley, **Vice Chairman**; R. Tautkus, **Secretary**; D. Greski; Jay Tivnan, **Alternate**; O. Gibbs, **Alternate**

**Absent:** S. Saunders, **Planning Director**

**Staff:** K. Snow, **Zoning Technician**

S. Bogert called the meeting to order at 7 pm. O. Gibbs was seated as a full board member for the evening.

**HEARINGS: (Continued)**

**Application # 2010-0018**  
**Laconia Refrigeration**

**MSL # 407-227-50**  
**11 Walker Street**

**C Zone**  
**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.

The chairman let the board members know that the applicant had a family emergency and is unable to attend the meeting tonight. They have asked to be heard at the ZBA meeting of October 18, 2010. S. Perley moved to hear the application at the October meeting, with the second by O. Gibbs. All voted in favor, 5-0.

**HEARINGS: (New)**

**Application # 2010-0019**  
**P. Dupont**

**MSL # 214-241-4**  
**582 White Oaks Rd**

**RRII Zone**  
**Variance**

The applicant is requesting a variance from 235-35 (A), front setback, in order to construct an addition to their house. The front setback in the RR II zone is 75' and the house is completely in the setback. The addition will be on the rear of the house and sit approximately 60' from the street.

**Applicant:** P. Dupont appeared for the application. He would like to add an addition to the rear of his house. The kitchen is very small. They have 6 grandchildren, with more on the way, and the family can't all fit in the kitchen. They want to add a dining room/play room, in the rear of the house. It will be 12 x 14 ft.

S. Bogert asked if it is in line with the right side of the house, and was told yes. The garage is on the same side so this won't be visible from the street. It won't block views and will be one story.

S. Perley clarified that there will be no bathroom and no additional bedroom and was told no, by P. Dupont, just the dining area. S. Perley said this is a one story addition on a two story house and asked how will be doing that. P. Dupont said it will be a shed roof and come in on a slant. He will tie it into the other roof.

J. Tivnan asked about a foundation and P. Dupont said the rear of the structure is on sono tubes, and there is no basement. They have a crawl space only. This is a small addition but it will make a huge addition to them.

D. Greski said when P. Dupont applied for the other variance in 2006, one reason for approving the variance was the addition couldn't be put in the back because the septic is in the rear. P. Dupont said this is smaller than that would have been, and the septic will be about 15-20 ft away. S. Bogert said it is on the side where the # 58 is on the map. S. Perley said it shouldn't be an issue. P. Dupont said they added one bedroom and one bath upstairs with that addition so it is still only 2 bedrooms.

**Public:** No one spoke for or against the application.

**Board:** There were no further questions. P. Dupont said he would like to do this and make his wife happy. She babysits a few times a week so would use this space for that as well.

**S. Bogert closed the hearing to the public.**

**Motion:** S. Perley moved to approve application # 2010-0019, to add the single story, 12 x 14 addition. This won't be contrary to the public and no one spoke for or against the proposal.

The spirit of the ordinance is observed as this is a unique situation. This is a small house which is on a good sized lot. The house sits totally in the setback. The addition won't be in the front, only in the rear, where there is lots of space.

Substantial justice is done as any negative benefit is outweighed by the benefit to the applicant.

The value of the surrounding properties are not diminished as no one can see the addition.

There is no fair & substantial relationship between the general public purposes of the ordinance and the specific application of that provision to the property as this is an allowed use. This is a single family house located in a neighborhood which has large lots. The houses are not close to each other and there is sufficient screening between the properties. The use is a reasonable use which is allowed under the ordinance.

R. Tautkus seconded. All voted in favor of approval, 5-0.

**The following 2 applications will be heard together and two separate votes taken.**

|                                       |                         |                 |
|---------------------------------------|-------------------------|-----------------|
| <b>Application # 2010-0020</b>        | <b>MSL # 426-220-6</b>  | <b>P Zone</b>   |
| <b>Laconia-Union &amp; Church LLC</b> | <b>220 Union Avenue</b> | <b>Variance</b> |

The applicant is requesting a variance from Table VI, Sign Regulations, in order to add a third sign, a wall sign, to the existing structure. The ordinance currently allows 2 signs.

|                                       |                         |                 |
|---------------------------------------|-------------------------|-----------------|
| <b>Application # 2010-0021</b>        | <b>MSL # 426-220-6</b>  | <b>P Zone</b>   |
| <b>Laconia-Union &amp; Church LLC</b> | <b>220 Union Avenue</b> | <b>Variance</b> |

The applicant is requesting a variance from Table VI, Sign Regulations, in order to add 23.23 SF of signage to the site. The allowed SF in this zone is 42 and the applicant currently has 41.3 SF of approved signage. This would bring them to a total of 64.53 SF.

**Applicant:** Steve Nix appeared for the applications. He agreed to hold both hearings together with the votes being taken separately. He said this proposal is one for additional sign, in the Professional zone. The property is split by 2 zones. One side is Church Street and one is Union Avenue. The end of the property, by Busy Corner, is the division between the Commercial and Professional zones. The building is situated in the P, Professional, Zone.

S. Nix showed a photo and said there is currently an existing freestanding sign at the Union Ave entrance. The building has no other permanent signage on it here and they want to add a sign above the door, on the pitched portion of the roof. The next photo shown looks back at the entrance, which faces the corner, and has a wall sign there. They want to duplicate that sign on the other pitched roof.

This won't be contrary to the public interest as the signs don't overwhelm the neighborhood. In the Professional zone the idea is to keep the overall number of signs and the square footage of the signage down to a point where they don't overwhelm. This property is located at the edge of the Commercial zone, and the placement of the sign won't overwhelm the Professional neighborhood. This is a limited area where they are asking for the sign. The owner needs to effectively communicate what the business is. When you get to certain areas you don't know what the building is. The second sign would communicate to people driving down Union Avenue what the building is.

The spirit of the ordinance is observed as the sign won't be intrusive to the neighbors. S. Nix said he took a look at the existing sign in the evening, and it has subtle illumination. The safety lighting is brighter than this. This sign is not obtrusive at night, and is very subtle.

Substantial justice is done as the goals of the ordinance will be preserved in granting this variance. This grants the property owner the ability to fully utilize the property, so justice is done.

Property values are not diminished as the overall impact is small. The landscaping required in the site plan works well with the signage. When you view the property, the trees shield one sign, and then you turn another way and the other appears so you won't see both at once. As the landscaping further matures, it will work better. This site is a new building, so it should have increased property values in the neighborhood.

Literal enforcement of the provisions would result in an unnecessary hardship. This is a unique property. It has frontage on two streets that come together and converge. They are both busy streets. The property is also split by a zone line. There is intense Commercial use here with a restaurant and other retail stores. Then you move into the Professional uses. CVS screened their property to keep away from Byse Insurance. They worked to keep the uses separate. This is a unique parcel of land.

There is no fair and substantial relationship that exists between the general public purpose and the specific application of the provision. In this case the application of the ordinance requests the one additional sign and square footage of signage, so the applicant can meet general purposes while still granting the variance.

The ordinance won't be compromised by this proposal. This is a reasonable use. The overall impact is small when compared to the rest of the area. This project took four smaller lots and merged them to get one larger lot so the overall impact, compared to what could have been there, is greatly reduced. This particular proposal meets the criteria for a variance for the number of signs and the square footage of the signage.

D. Greski asked if the sign at the front of the building is illuminated and S. Nix said it wasn't this evening when he drove by and he is not sure if it is supposed to be. D. Greski said this is the freestanding sign. S. Bogert said he isn't sure either, if it is illuminated, but if it is it can't be too obtrusive as he doesn't notice it when he goes by. D. Greski said it might not have been on this evening due to the time of the year. S. Nix said he drives down the street at night and it doesn't stand out. D. Greski said it makes a difference to him. J. Tivnan said the wall sign is lit but doesn't think he has ever seen the freestanding sign lit.

S. Nix said the wall sign they are proposing will be of more use in the daylight.

**Public:** Eugene Friedman, Lakes Region Mental Health Center, stated that they object to the requests. He said this is not part of the original approved plan. Then they came back and made 13 requests originally for signage, which was turned down. Now they are back again.

He stated that on neither occasion did anyone come to speak to them on this. 111 Church Street, their property, really abuts this property. Their facility has only one sign there. They serve severely mentally ill people, and have a lot of clients who walk to work, as they can't drive. Adding more signage can add to their confusion and agitation, so this would be contrary to public interest. This proposal could harm their patients and the center.

This is not an unnecessary hardship. People can tell this is a CVS. They have a large sign now. You can't help but see this sign. He said to look at the driveway on Union Avenue and you will see that they do have another sign stating this is CVS. On the Union Avenue side, they have a large sign now. On the Church Street side, they have signage, indicating the drive through, and no loitering. Also, coming from the Opechee Bridge towards the business, passing

Genesis, there is a sign that states enter/exit. This does not keep to the spirit of the ordinance and is contrary to the public interest, possibly causing harm to their patients.

On the use of the property, look at the neighborhood businesses. Health First has one stand alone sign, Rite Aid has 2 signs. D. Greski said Rite Aid actually has 3 signs, 2 wall signs and one freestanding sign. E. Friedman said Rent a Center has 2 signs, Salvation Army has 2, TD Bank has one, H&B Block has 1, Normandin, Cheney and O'Neill has one. LRHC has one and if anyone needs more, it would be them.

E. Friedman said he feels this would diminish property values, and that no justice is done in granting this variance.

S. Bogert said that the Brickfront recently added a sign, and they had no objection to that. E. Friedman said he didn't think they were notified on that. He said back when CVS was built, the notification went to the front desk, and the employee who signed for it had a son who was ill. The notification never got to management where it should have gone and no one knows where it went so they weren't notified properly. He feels that this is still a professionally zoned area. The notice should have gone to the director, who never got it.

**No one else from the public spoke for or against the application.**

S. Nix stated that the location of the mental health facility is northeast of this property, on Church Street, towards town. The only signs on that side are directional signs. There is a small drive thru sign on the top. These business signs cannot be seen from that property. Mr. Friedman is correct, this is the Professional zone, but this property is the conversion piece, since it falls in both zones. The intent is to keep the sign on the end of the property where the most business is. Out of respect for the Professional zone, they are keeping signs away from that end of the property.

E. Friedman stated that they appreciate the advertising of the business. He explained that the severely mentally ill are agitated and confused. The therapy rooms are on that side and elimination of some of the bright signs would help. He said planting the vegetation is their choice. They do not feel this is in the public good.

He said the mentally ill are stigmatized and given a lack of opportunity to progress. On neither occasion did CVS approach them to talk to them about this. It is important not to do things that have a negative impact on these fragile patients. He doesn't feel any additional signage is needed.

He said on his way home he will go see if the freestanding sign is illuminated. Why add to the mentally ill's confusion; they are citizens, too, and need respect.

He said that CVS was here a while back, and are now here again. He asked what is to stop them from coming back again.

J. Tivnan stated that he remembered S. Saunders saying that Planning allowed them to build this and that they were told in the beginning the signage would be limited. This is the third time this has been talked about. Would allowing more signage be setting a wrong precedent?

S. Bogert stated that precedent is strange way of looking at things. All applications are supposed to stand on their own. Perceptions are sometimes greater than what is sometimes allowed. Everyone would have a different opinion if asked.

S. Nix said it is hard to respond to Friedman's comments. If responding to the issue of his clients they would be painted as someone against the mentally ill. Mr. Friedman has placed him in a Catch 22 now as he has said the clients don't need this signage. He doesn't want the board to think they are in opposition to the type of services offered.

S. Bogert let Mr. Nix know that the board members did not feel that the applicant is in opposition to the services offered.

E. Friedman again stated that no one approached them. S. Bogert asked if they were mad because they weren't approached as Mr. Friedman keeps stating this over and over. E. Friedman said no, his point is, if they had gone into talk to them, and hearing what it does to the patients, then maybe could have done something that would work for the patients.

D. Greski said we were questioning him because he has stated this multiple times, and we respect their organization. He asked if the notice was delivered properly the first time as Mr. Friedman had said the organization did sign for the documentation. Mr. Friedman said yes the notice was delivered and signed for although it didn't make it to where it should have gone.

**S. Bogert closed the hearing to the public.**

D. Greski said he sat in on all of the discussions, and has driven by many times even after the court decision. He said he feels anyone going by would know this is a CVS. He asked about the illumination of the free standing sign.

S. Perley said that the City approved this application, and we know that when plans are approved the signage is done later. When the initially came in they had too many signs, but now have minimal signs for this type of business in this zone. This request is unobtrusive, and much better than the plastic banner that is there. People would be more apt to see this sign. She said she doesn't see how one sign on the building would affect any disabled people in the neighborhood. She stated she is not a big sign person but doesn't feel this one sign is an obstruction to the neighborhood.

R. Tautkus and O. Gibbs said they are in agreement with her. O. Gibbs stated that the sign doesn't flash or move. R. Tautkus said this is a large structure and it looks like a sign should be in that location. O. Gibbs said it would balance the building.

S. Perley said there has been a lot of time and effort spent, and there would be no other requests for signage. This proposal would end that.

S. Bogert said he drives by this every morning and looks at this and sees the now open sign, and that it doesn't look right. S. Bogert said it looks unfinished to him, it doesn't look complete.

S. Perley said this is a small variance and she has no problem with this request.

S. Bogert stated we should begin with the motion for 2010-0021, for the square footage of the sign.

**Motion: 2010-0021: Square Footage of sign:** R. Tautkus moved to approve application # 2010-0021 to allow the additional 23.23 feet of signage. The proposal won't be contrary to the public interest although one abutter spoke against it. She said she feels this is a small sign and should not affect the public in a negative way.

The spirit of the ordinance is observed as the sign won't be intrusive, and is a reasonable sign.

Substantial justice is done as this proposal will allow the existing property owner to adequately advertise the business.

Property values won't be diminished as adding a sign to one side of the property won't affect the values.

There is no fair and substantial relationship which exists between the general public purposes and the specific application to the property. There would be an unnecessary hardship as the property has special conditions which make it unique. It is divided by 2 zones, Professional and Commercial.

The proposed use is a reasonable one. The sign is a reasonable size.

S. Perley seconded the motion.

**Board:** S. Bogert asked if another reason this won't be contrary to public interest is because the sign is placed on the opposite side from Church Street and that the values of surrounding properties are not diminished because there would be no effect on the Church Street side of the property.

R. Tautkus added this to the motion and S. Perley seconded. All voted in favor 5-0.

**Motion: 2010-0020: number of signs:** S. Perley made the motion to approve application # 2010-0020 for the additional wall sign. The proposal won't be contrary to the public interest and only one abutter spoke against. The sign will be on the opposite side of the building, so it should have no impact on the Church Street side.

The spirit of the ordinance is observed as this is not an intrusive sign and is consistent with others.

Substantial justice is done as the proposal allows the property owner to have sufficient signage on this unique parcel of land in the busy Commercial district.

There is no fair and substantial relationship between the general public purposes of the ordinance and the specific application of the provision to the property. The property has special conditions and is in a unique location. It has two separate street frontages and the sign is consistent with others in the neighborhood.

The proposed use is a reasonable use. The size and character of the sign is not obtrusive, and it will blend in with the neighborhood.

R. Tautkus seconded the motion.

**Board:** S. Bogert suggested that the "now open" sign is removed from the property and all temporary signs will be removed from the building as well.

K. Snow let the board members know that temporary signs have a certain time frame and that this property would be over that so the signs should be removed anyway.

S. Perley added the above condition, R. Tautkus seconded. The motion was approved, 4-1.

**Motion 2010-0021:** S. Bogert: reopened the hearing for 2010-0021 to add the same condition of approval to the application.

S. Perley moved to add the condition, with the second by R. Tautkus. The motion was approved 4-1.

**OTHER BUSINESS:** None

**MINUTES: July:** The minutes from the meeting of July 19, 2010 were discussed. S. Perley made the motion to approve the minutes as written with the second by R. Tautkus. All voted in favor of approval, 5-0.

**August:** The minutes from the meeting of August 16, 2010 were discussed. D. Greski abstained from voting as he was not in attendance at the meeting; J. Tivnan was seated at that meeting so he voted on these minutes. The motion to approve the minutes as written was made by S. Perley, with the second by R. Tautkus. All voted in favor of approval and the minutes were passed, 5-0.

**ADJOURNMENT:** The motion to adjourn was made by S. Bogert and seconded by O. Gibbs. All voted in favor and the meeting adjourned at 8:15 pm.

Kristine Y Snow  
Zoning Technician