

**Town of Milford
Zoning Board of Adjustment Minutes
June 6, 2013
Dutton House LLC
Case #2013-10
Variance**

Present: Fletcher Seagroves, Chairman
Zach Tripp
Laura Horning
Bob Pichette
Kevin Taylor

Katherine Bauer – Board of Selectmen’s representative
Mike Thornton - Alternate

Absent: Paul Butler - Alternate

Secretary: Peg Ouellette

The applicant, Dutton House LLC c/o Kim Roberge, owner of Map 31, Lot 12, located at 388 Nashua St, in the Residence “A” District, is requesting a variance form Article VII, Section 7.06.7:G, to install a 17 SF monument sign. The maximum allowed area for a monument sign on a lot of less than five (5) acres in the Residence “A” district is six square feet (6 SF).

Minutes approved on June 20, 2013

Fletcher Seagroves, Chairman, read the notice of hearing into the record as well as the list of abutters. Kim and Steve Roberge of Dutton House LLC, owners of 388 Nashua St, were present. He then invited the applicants forward to present their case.

K. Roberge noted that their application is under a different name than their previous application before the Board, since they had decided to pay homage to the Duttons, the previous owners. They are requesting a variance to Article VII, Section 7.06.7:G to permit a monument sign in Residence A that is larger than 6 SF. She noted the application stated 13 SF and the drawing said 17 SF, but that was based on the cutouts in the sign. Taking out the cutouts made it 12 SF. The sign will be down-lit to reduce light pollution. The building is across from Powers Street and on that side of Nashua St, the property is zoned Limited Commercial, but anyone driving by would not be aware that it is residential use on one side and limited commercial on the other. She cited signs on businesses on the opposite side that were larger than their proposed sign and commented that she didn't see how the sign directly opposite is allowed to remain.

F. Seagroves said it was not a permanent sign.

K. Roberge stated it has been there a long time. She stated they have a tenant for their property on agreement for a lease. The tenant has provided drawings for what he is looking for, and they have provided those drawings to the Board. There is not much change except for having the granite posts changed to be smooth and for pyramid caps on the walkway to match the front.

L. Horning asked why they wanted smooth. She thought they would want it apart from the house.

K. Roberge said it would match the stairs, although it is more expensive. The sign will be moved down a little on the posts.

F. Seagroves asked whether the size would change.

K. Roberge said no.

K. Roberge said just the posts. It will look taller with caps and will be lower so aesthetically it will be more continuous. They believe it is in character with the rest of the signs. It is a little smaller than other signs in the area. They had discussed another sign for Dutton LLC under it, but decided to pay homage on the building itself.

F. Seagroves cited from the handbook that if the premises consist of less than five acres of land the maximum area permitted is 6 SF. For properties five acres or larger, the maximum is 16 SF. They are asking for 17 SF.

K. Roberge said the overall signage is not actually 17SF; that measurement takes the cut-outs into consideration, as if that were all signage.

F. Seagroves asked if they are talking about 16 SF.

K. Roberge responded probably more like 14.2 SF.

Z. Tripp asked if that included the sign under.

S. Roberge said it does include the little strip. Across the street they are allowed to have 32 SF and Dr. Bower's and Dr. Raczek's as well.

F. Seagroves commented that it is not known when they went in.

K. Roberge said she was just comparing to other signs in the area.

F. Seagroves said she did bring up the fact that the opposite side of the street is not Residence A and what she was trying to say was that people driving down the street would not know it was Residence A on one side and Commercial on the other.

F. Seagroves asked for further questions from the Board. There were none.

F. Seagroves then opened the meeting to public comment. There was none. He closed the public portion of the meeting and asked the applicant to go through the criteria for a variance.

A variance is requested from Article VII Section 7.06.7:G of the Zoning Ordinance to permit a monument sign in the Residence "A" district on the Nashua Street Corridor that is larger than the 6 SF allowed. Overall signage requested is 13SF.

1. Granting the variance would not be contrary to the public interest because:

By having zoning that allows for offices in the Residence "A" district in the Nashua St. Corridor which is directly across the street from a Limited Commercial District, the signage would be similar to existing signs, placement clearly visible in both directions and conform to landscape & style of property.

2. The use is not contrary to the spirit of the ordinance because:

A business needs to identify, promote and/or communicate where they are located and what they do.

3. Granting the variance would do substantial justice because:

There are similar signs on abutting properties across the street from the property as well as signs similar on neighboring properties in the Residence "A" zone.

4. The proposed use would not diminish surrounding property values:

It would not diminish abutting properties since most surrounding properties are of mixed use, commercial, or office in Residence "A" zone.

5. Denial of the variance would result in unnecessary hardship.

A). "Unnecessary hardship means that, owing to special conditions of the property that distinguish it from other properties in the area:

We already have been granted a variance for office in Residence A zone, and it diminishes value of property without adequate signage.

i). No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:

A sign such as this would not be out of the ordinary in this section of the Nashua St. corridor.

ii) and; The proposed use is a reasonable one because:

A sign identifies, promotes and communicates what business is located in this building and what they do.

B) If the criteria in Section (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance. A variance is therefore necessary to enable a reasonable use of the property because:

It is necessary to distinguish it in what otherwise might be considered a residence and to show, identify it as a business and it stays within the character of the other signage in the area and is a reasonable use.

F. Seagroves asked the Board if they had any additional questions or comments. There were none, so they proceeded to discuss the criteria for a variance.

1. Would granting the variance not be contrary to the public interest?

Z. Tripp said yes. This size sign, in this location would not unduly, and to a marked degree, violate the basic zoning ordinance. It is appropriate for the size of the lot and frontage and the surrounding properties in the neighborhood.

L. Horning said yes.

K. Taylor said the sign would fit the Nashua corridor.

B. Pichette agreed. It was residential, now it is a business; they need a sign.

F. Seagroves agreed. It would not be contrary to the public interest. They are doing good work on the house. He has had comments from some of the neighbors who said it was looking good. He felt the sign looked good and fit in.

2. Could the variance be granted without violating the spirit of the ordinance?

K. Taylor said yes

B. Pichette said yes. By installing a monument it doesn't threaten anything.

L. Horning said she thought it was within the spirit of the ordinance, as stated in the handbook regarding the safety and welfare of the community. Heading up the street toward Nashua, visibility is constricted. People need to be able to see it without slowing down to read it.

Z. Tripp said yes, the spirit of the ordinance being discussed is the maximum allowable sign size. It can be done by controlling lot size or controlling sign size, bigger lot, bigger sign. This lot has a lot of frontage and he felt the sign was proportional. It was still within the spirit, being not too large for the structure or the lot and it serves to communicate with the community.

F. Seagroves agreed. He didn't see any health, safety or general welfare threat. As stated previously, even though the size is what is permitted for five acres he didn't see a sign of that size making a difference in that location. It fit with the character of the building.

3. Would granting the variance do substantial justice?

B. Pichette said yes, as the applicant stated, there are many signs in the area about the same size.

K. Taylor said yes, in the corridor there are signs that are about the same.

Z. Taylor said yes. There is no gain to property to deny it. It would be an injustice to the applicant. It is gain to the public by approving it; it is a nice sign, in scale with other signs and improves the corridor.

L. Horning agreed. The sign is pleasing, in proportion to the building, and the street frontage of the building as far as the length of the lot. The applicants are not asking for an exponentially large amount over what the ordinance would allow.

F. Seagroves agreed. It looked good and blended with the house and everything else. It will do substantial justice.

4. Could the variance be granted without diminishing the value of abutting property?

Z. Tripp said yes, he didn't see how this would reduce value.

L. Horning said it would bring value to the abutting properties and will accentuate the property. There is homage being paid to the original property owner. The smooth granite will be in keeping with the house. Many Board members have heard from abutters already about the improvements.

B. Pichette agreed, the proposed sign will not diminish value of any property.

K. Taylor agreed. He felt it would not diminish value of any property.

F. Seagroves agreed, it will not diminish value. All the work done so far, has brought the value of the neighboring properties up a bit.

5. Would denial of the variance result in unnecessary hardship taking the following into consideration:

**A) i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property;
ii. The proposed use is a reasonable one.**

B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably

used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

L. Horning said there is unnecessary hardship with this property in that if they were in strict conformance with the ordinance, the sign would be dwarfed, not by other signs, but by the property. The house is, aesthetically, an incredible statement. Everyone who drives by sees its unique character and now with the rehab going on, the house itself where it is situated is a handicap; because you want to set it apart from the house. It would be an unnecessary hardship taking into consideration the size and structure of the house, in comparison to the sign ordinance.

Z. Tripp commented that was very well stated by L. Horning and referenced the prior application, where all properties shared the same ordinance so there was no hardship unlike this case where unfortunately the surrounding properties with larger signs are in different zones technically, so you cannot apply the same rules both. Previously this Board has approved the office use in the Residence A district, so they are essentially a commercial district by allowing business there and applying the Residence A sign rules would be an unnecessary hardship. It is a good-sized building with a lot of frontage but applying the ratio of signage to lot size would be a hardship for this property. Granting the variance would not frustrate the purpose of the ordinance. It is a reasonable use of signage.

B. Pichette said not granting the variance would be an unnecessary hardship. It is residential changed to business, and they need a sign.

K. Taylor said it is the same as in the other case. If the Board told the applicants what sign to put in, it would have been a little postage stamp.

F. Seagroves agreed. It would be an unnecessary hardship to deny this. A smaller sign would not be justice. He asked the applicants if the lighting would be on 24/7.

K. Roberge responded that they have not had that discussion with their tenant but don't think there is reason to have it on all night. They could probably have a shut-off time.

L. Horning said it was a good point, because they have already had questions from abutters about the lighting, and there are residences in the area.

F. Seagroves and the applicants discussed the possibility of a shut-off at midnight.

K. Roberge suggested a photocell that turns on at night, but with a timer to shut it off. They will also have a discussion with the mentioned abutter, as they want to be good neighbors.

F. Seagroves asked if there were any additional comments; there were none so, he called for a vote.

1. Would granting the variance not be contrary to the public interest?

K. Taylor - yes

B. Pichette - yes

Z. Tripp - yes

L. Horning - yes

F. Seagroves - yes

2. Could the variance be granted without violating the spirit of the ordinance?

L. Horning – yes

Z. Tripp – yes

B. Pichette – yes

K. Taylor – yes

F. Seagroves - yes

3. Would granting the variance do substantial justice?

Z. Tripp – yes

B. Pichette – yes

- K. Taylor – yes
- L. Horning – yes
- F. Seagroves - yes

4. Could the variance be granted without diminishing the value of abutting property?

- B. Pichette – yes
- Z. Tripp – yes
- L. Horning – yes
- K. Taylor – yes
- F. Seagroves – yes

5. Would denial of the variance result in unnecessary hardship taking the following into consideration:

A) i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property;
ii. The proposed use is a reasonable one.

B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

- L. Horning – yes
- Z. Tripp – yes
- B. Pichette – yes
- K. Taylor – yes
- F. Seagroves – yes

F. Seagroves asked if there was a motion to approve case # 2013-10, a request for a variance.

K. Taylor made the motion to approve Case #2013-10

B. Pichette seconded the motion.

Final Vote

L. Horning – yes

Z. Tripp – yes

B. Pichette – yes

K. Taylor – yes

F. Seagroves – yes

Case #2013-10 was approved by a 5-0 vote.

F. Seagroves reminded the applicant of the thirty (30) day appeal period.