

**Hopkinton Zoning Board of Adjustment**  
**Minutes**  
**April 3, 2007**

Chairman Janet Krzyzaniak opened the Hopkinton Zoning Board of Adjustment hearing of Tuesday, April 3, 2007, at 7:00 PM in the Town Hall. Members present: Toni Gray, Charles Koontz, Carolyn Hackwell and John Boatwright.

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**I. Applications.**

TH07-2S-4-2 Stephen D. Stockwell—Applicant requested a Special Exception for an internally lit sign advertising his business. The property is owned by Richard Fournier, located at 54 Park Avenue in the VB-1 (village commercial) district, shown on Tax Map 101 as Lot 67. The application was submitted in accordance with Section 7.2.4 of the Hopkinton Zoning Ordinance.

Mr. Stockwell explained how he plans to lease space from Mr. Fournier to operate a private physical therapy practice. As part of the operation of the business, Mr. Stockwell proposes to replace the face of the sign advertising the former Video Junction store with a new sign advertising his business. There will be no change proposed in the sign location, size or light source/intensity. The existing aluminum light box will be utilized.

Mr. Stockwell reviewed the standards for a Special Exception in accordance with Section 15.8.2 of the Zoning Ordinance.

- 1) Standards provided by this Ordinance for the particular use permitted by Special Exception.

“The request for a Special Exception is for an internally lit sign in the VB-1 district in accordance with Section 7.2.4 of the Zoning Ordinance.”

- 2) No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.

“The sign will only be illuminated during hours of operation. There are no hazards known as the sign has been in place for a number of years without incidents.”

- 3) No detriment to property values in the vicinity or change in the essential characteristics of the neighborhood on account of the location or scale of buildings and other structure, parking areas, access ways, odor(s), smoke, gas, dust or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials.

“None known or expected.”

- 4) No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity.

"The replacement of the face of the sign will not affect the level of traffic in the area."

- 5) No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools.

"There will be no affect to services as there will be no change in the light intensity of the sign."

- 6) No significant increase of storm water runoff onto adjacent property or streets.

"The proposal is to replace the face of the existing sign and to continue to have an internally lit sign. There will be no changes to storm water runoff as it relates to the proposed changes to the existing sign."

- 7) An appropriate location for the proposed use.

"The location is appropriate as the sign location presently exists with no changes proposed to the sign locations, size, or light source/intensity. The existing aluminum light boxes will be utilized."

- 8) Not affect adversely the health and safety of the residents and others in the area and not be detrimental to the use or development of adjacent or neighboring properties.

"There will be no adverse affects on the health and safety of the residents."

- 9) In the public interest and in the spirit of the Ordinance.

"Again, the sign location presently exists with no changes proposed to the sign locations, size, or light source/intensity. The existing aluminum light boxes will be utilized."

There was no public testimony.

Mr. Boatwright suggested that there would be positive affects to the health and safety of the residents as the lit sign will provide guidance to the physical therapy business. Mr. Boatwright inquired as to the hours of operation for the business. Mr. Stockwell estimated 7:00 AM to 7:00 PM, six days a week.

Motion made by Mr. Boatwright, seconded by Mr. Koontz, to vote on Application TH07-2S-4-2 as submitted. Motion carried unanimously. With five members voting, five voted in favor (Gray, Koontz, Hackwell, Boatwright, and Krzyzaniak) of approving the application as presented. The Applicant adequately addressed the criteria to be granted a Special Exception set forth in paragraph 15.8.2 of the Zoning Ordinance.

TH07-1V-4-3 Edward Jewell—Edward Jewell of 304 Farrington Corner Road addressed the Zoning Board of Adjustment to request a Variance to construct a residence having less than the front setback required for the R-4 (residential/agricultural) district. The property is located off Tamarack Road, shown

on Tax Map 211 as Lot 13.1. Mr. Jewell presented a site plan showing the 420 foot easement area that is controlled by the Army Corps of Engineers. The plan had also shown the setback lines for the district, along with the 30 foot front setback that is being requested. The Board then reviewed photographs of the blazing of the easement area of the property.

The Board reviewed Mr. Jewell's explanation to the requirements for Variance in accordance with Section 15.8.3 of the Hopkinton Zoning Ordinance.

1. The proposed use would not diminish surrounding property values because:

"We are trying to improve the site conditions and dwelling layout. Our goal is to provide the best position for the new home."

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

"This particular lot is surrounded by Army Corps of Engineers land easements and/or property. This lot is on the old Route 202/9 and is now a dead-end road. This is the last lot on the road."

3. By granting the variance substantial justice would be done because:

"We could place our home in a more appropriate position. Lending more curb appeal to our home."

4. The spirit and intent of the Ordinance will not be broken by granting the variance because:

"No other neighbors will be affected by granting this variance."

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

- (a) An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property.

"We are not changing the use of the land or property. The property is subject to an easement which restricts the building area. This easement has been given to the U.S. of America Hopkinton-Everett Reservoir."

- (b) 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.

"The setback reduction cannot be achieved any other way. The side setback runs into the 420 foot mark. This is a restricted building area for a habitat."

Mrs. Gray questioned whether the Planning Board, at the time of subdivision, considered the limited space available for construction of a residence. Mrs. Robertson replied yes, and referred the Board to the minutes of the Planning Board meeting.

The Board discussed the size of the easement, the steep elevation of the property, and the location of the lot at the end of a dead-end street surrounded mostly by property owned by the U.S. Government.

Mrs. Gray noted that while Mr. Jewell is requesting a substantial variance from the front yard setback requirement, the available area of the property to build on is very limited.

Motion made by Mr. Koontz, seconded by Mrs. Hackwell, to vote on Application TH07-1V-4-3 as presented. Motion carried unanimously. With five members voting, five voted in favor (Gray, Koontz, Hackwell, Boatwright, and Krzyzaniak) of approving the application as presented. The Applicant adequately addressed the criteria to be granted a variance as set forth in paragraph 15.8.3 of the Zoning Ordinance. The Board unanimously agreed that by granting the Variance no decrease in the surrounding properties would be suffered as the property is located at the end of a dead-end street and surrounded mostly by property owned by the U.S. Government which is controlled by flood easements. Additionally, it was agreed that the granting of the Variance was necessary due to the fact that the flood control easement encompasses most of the buildable area of the subject property.

TH07-1S-4-1 Jack Porter—Applicant was to request a Special Exception to convert the use of a detached building from an industrial (light assembly) use to a residential use. The property is owned by Louisa Porter, located at 881 Main Street in the VB-1 (village commercial) district, shown on Tax Map 101 as Lot 5. The application was submitted in accordance with Table of Uses 3.6.A.1 of the Hopkinton Zoning Ordinance.

Applicant was not available for the hearing. Application will be included as part of the Board's May 1, 2007 agenda.

## **II. Review of the Minutes and Notice of Decision of the March 6, 2007 meeting.**

Motion made by Mr. Koontz, seconded by Mrs. Hackwell, to accept the Minutes as correct. Motion carried unanimously (Gray, Koontz, Hackwell, Boatwright, and Krzyzaniak).

Motion made by Mrs. Gray, seconded by Mr. Boatwright, to accept the Notice of Decision as submitted. Motion carried unanimously (Gray, Koontz, Hackwell, Boatwright, and Krzyzaniak).

## **II. Adjournment.**

Chairman Krzyzaniak declared the meeting adjourned at 8:00 PM. The next regular scheduled meeting of the Board is Tuesday, May 1, 2007, at 7:00 PM in the Town Hall.

Karen L. Robertson  
Planning/Zoning Director

Pursuant to New Hampshire RSA 677:2, any party to the action or proceedings, or any person directly affected thereby, may apply for a rehearing. Application, in writing, must be submitted to the Zoning Board of Adjustment within thirty (30) calendar days beginning the date upon which the Board voted to approve or disapprove the application. Such a request must set forth the grounds on which it is claimed the decision is unlawful or unreasonable. The Board must decide to grant or deny the rehearing within thirty (30) days.