



Office of
The Zoning Board of Appeals
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RECEIVED
 NOV 18 2021
 TOWN OF TOWNSEND
 TOWN CLERK

William Cadogan, Chairman

David Funaiole, Associate Member

David Chenelle, Clerk

Sean Pearson, Member
 Craig Stevens, Associate Member

Darlene Sodano, Vice Chair

Victoria Janicki, Member

Zoning Board of Appeals Meeting MINUTES

September 29, 2021, at 5:30 PM

VIRTUAL MEETING

VIA: ZOOM PER GOVERNOR'S ORDER SUSPENDING CERTAIN PROVISIONS
 OF THE OPEN MEETING LAW, G.L. c. 30A, § 20†

And "Act relative to extending certain Provisions of the Open Meeting Law, G.L. c. 30A, Section 20" signed by
 the Governor on June 16, 2021.

PUBLIC ACCESS ZOOM MEETING LINK: Join Zoom Meeting

<https://us02web.zoom.us/j/84184663407?pwd=WFNpOFZLWERQUWNEaHJwTm9WNkVmQT09>

Meeting ID: 841 8466 3407 Passcode: 996868

1 PRELIMINARIES: votes may be taken.

- 1.1** Call the meeting to order and roll call. Chairman Cadogan called the meeting to order at 5:45 p.m. Present were Bill Cadogan (BC), Chair, David Chenelle (DC), Clerk, Vicky Janicki (VJ), Member, Sean Pearson (SP), Member, David Funaiole (DF), Assoc. Member, Craig Stevens (CS), Assoc. Member. Absent was Darlene Sodano, Vice Chair. Also present was Elizabeth Faxon, ZBA Admin., Hartley Pleshaw, TCAM. Selectwoman Veronica Kell. The meeting was live hosted by TCAM and broadcast on Channel 9. The recording of the meeting was uploaded to

† On June 16, 2021, the Governor signed the "Act relative to extending certain Provisions of the Open Meeting Law, G.L. c. 30A, Section 20" until April 1, 2022, at which time the extension will be repealed. Public bodies may therefore continue to conduct their meeting in accordance with the Order Suspending the Open Meeting law and may continue to have remote meetings in full. Public bodies are relieved from the requirement that they conduct their meetings in a public place that is open and physically accessible to the public; provided, however, that all public bodies shall ensure public access to deliberations through adequate, alternative means, which include (but are not limited to) telephone, internet or satellite enabled audio or video conferencing or other technology that enables the public to clearly follow the proceedings of the public body while they are occurring. The Order also allows remote participation by all members of a public body; and waives the requirements that a quorum and the chair be physically present at the meeting location.

the Town of Townsend YouTube channel at the following link: [2021-09-29 Zoning Board of Appeals - YouTube](#)

- 1.2 Chairman's additions or deletions. None noted.
- 1.3 Approval of Minutes 06-30-2021. DC moved to approve the minutes of 06-30-2021. VJ seconded. Roll call vote was taken as follows; YES – VJ, SP, DF, DC, BC. The motion carried 5-0-0.

2 **PUBLIC HEARINGS AND APPOINTMENTS:** votes may be taken.

- 2.1 **5:45 pm Public Hearing – 18 Main Street – Assessors Map # 41 Block #4 Lot 0. Hannaford Bros. Co., LLC. – §§145-57, 145-64 & 145-66 – petition for a variance from the commercial and industrial district Signs Bylaw and/or an Appeal of the Building Commissioners determination to allow for a total of three signs affixed to the Hannaford building where one sign is permitted.**

Chairman Cadogan appointed Associate Member David Funairole as full voting Member for the meeting. BC opened the public hearing at 5:47 p.m. Clerk DC read the legal notice. Present for the Applicant was Atty. John Smolak (JS), Smolak & Vaughn (left at 6:30pm.) Jay Lord (JL), project manager. (left at 6:30pm).

JS gave a presentation: Hannaford Bros. LLC is requesting the Board grant a zoning dimensional variance related to all signs being upgraded in connection with proposed renovation. The request is to allow Hannaford to install three wall signs where one sign is permitted under Section 145-57 B of the Zoning Bylaw. Hannaford Supermarket is located on a 11 acre parcel of land and has been leased from the owner since 2005. JL shared a presentation on the screen and JS referred to the slides as he pointed out some features on the aerial photograph such as distance to the main road and topography of the site. Hannaford would like to replace the main wall sign and the welcome sign. The Applicant further proposes a new wall sign “Hannaford to Go” to be located on the left side of the Main sign and is proposed as non-illuminated 18.25 sq. ft. in size and located at the end of the building to help inform the community as part of their pre-order, pack and pickup at designated place service. JS noted the proposed replacement Main sign is the same size as the existing sign and is the only illuminated sign having significantly reduced lumens from just under 50,000 lumens down to a little over 10,000 lumens, a reduction of almost 80% in lighting. DC asked about the disparity of the narrative description of the “welcome” sign being described as nonilluminated and the plans describing the welcome sign as illuminated channel letters. JS confirmed that this was an error and that the welcome sign is non-illuminated. DC asked for a corrected plan be submitted and JS confirmed. DC asked if the proposed “welcome” sign is the same size as the existing and heard affirmative. JS discussed the argument for the variance and noted that it was similar to the variance petition for a similar sign proposal in 2005. He surmised the unique conditions being the building is located a significant distance from Main St. and the irregular topography of the land along Main Street and the other buildings being in closer proximity to Main Street restrict the visibility of the building and the signs. DC moved to approve the Hannaford Bros. LLC's request for a variance pursuant to the accompanying plans and documents with amended changes as requested for the variance and finding that the circumstances relating to soil condition shape or topography of such land or structure and especially affecting such land or

structure but not affecting generally the zoning where it is located a literal enforcement of the provision of the bylaw would involve potential harm financial or otherwise to the petitioning applicant and that the desired relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent of the proposed by-law. DF seconded. A roll call vote was taken as follows: YES – VJ, DF, BC, NO – DC, SP (3-2-0). The motion failed.

JS appealed to the Chairman to reconsider the vote at the next meeting concerned with the inability of upgrading the signs. The Board then considered the petition under the Appeal of the Building Commissioners determination. DC moved to overturn the Building Commissioners determination regarding signs A and B as reflected in the Applicants' memorandum for the reason that it is a replacement of signs that are as is conditioned. SP seconded. A Roll call vote was taken as follows: YES – VJ, SP, DF, DC, BC (5-0-0). The motion carried.

DC moved to suspend the vote on the variance and before he was finished, JS interjected and made a suggestion that the Applicant can withdraw the request for reconsideration in light of the finding vote that the Board has taken which allows them to preserve the 2 signs out of 3. Discussion followed indicating that the Applicant wished to preserve the finding and withdraw the variance request without prejudice and the prohibition of reapplying would not be applicable if they wished to request the "Hannaford to Go" sign in another application. DC moved to accept Hannaford Bros. LLC indication to withdraw without prejudice it's variance request. VJ seconded. A roll call vote was taken as follows: YES – VJ, SP, DC, DF, BC. The motion carried 5-0-0.

DC moved to authorize Bill Cadogan, Chairman of the ZBA, to sign the Decision on behalf of the Board. SP seconded. A Roll call vote was taken as follows: YES – VJ, SP, DF, DC. ABS – BC. The motion carried 5-0-1.

2.2 6:15 pm - Public Hearing – 203 Main Street – Assessors Map # 26 Block #23 Lot 0. Paul and Laurie Martin – petition for a special permit and or appeal of the Building Commissioner's determination under Zoning Bylaws §§§145-18, 145-64, & 145-65. The Applicant is proposing to construct a deck addition within 1.1 feet of the side yard lot line on the easterly side of a pre-existing, non-conforming residential structure.

DC moved to open the public hearing on the petition of Paul and Laurie Martin for a special permit at 6:25 pm. DF Seconded. Roll call vote was taken as follows: YES – SP, VJ, DC, BC, DF. The motion carried 5-0-0. DC read the legal notice of public hearing into the record.

Present: Paul and Laurie Martin, Applicants (left @ 6:45pm). Jonathan Black, abutter (left @ 6:45 pm).

Paul Martin answered questions. The Deck will be no more than 2.5 to 3 ft. high off the ground. There was a referral comment from the Board of Health about the distance of the proposed deck to the septic system leach field. Paul explained that the septic system leach field is located on the NE side of the gazebo structure about 25 to 30' away from the house. Jonathan Black commented that he has no opposition to the deck being constructed as proposed and does not feel it affects his

property. BC commented that the deck is proposed at the back of the house, and it is not increasing the non-conformity. The Board then rendered the following findings of fact:

Findings of Fact:

1. No abutters were present in opposition: one abutter (most affected) had no issues with the request.
2. All mandatory referrals were received.
3. In terms of Townsend Zoning Bylaw Section 145-65 (F) (1) (a-g) Special Permit Decision, the Board found as follows;
 - a) **Adequacy of the site in terms of the size for the proposed uses;** the Board found the property is adequate in size for the proposed use.
 - b) **Suitability of the site for the proposed use;** the Board found the property is suitable for the proposed use as it is a residential use on a residential lot.
 - c) **Impact on traffic flow and safety;** the Board determined that traffic flow and safety would have no change.
 - d) **Impact on neighborhood visual character, including views and vistas;** the Board determined that the proposed construction would have no impact.
 - e) **Adequacy of method of sewage disposal, source of water and drainage;** the Board determined that there will be no impact.
 - f) **Adequacy of utilities and other public services;** the Board determined that there will be no impact.
 - g) **Impact on ground and surface water quality and other environmental and natural resource considerations;** the Board determined that there would be no impact.

David Chenelle moved that pursuant to Section 145-65 (F) of the Townsend Zoning Bylaw the proposed use will not have adverse effects, which overbalance its beneficial effects on either the neighborhood or the Town, in view of the particular characteristics of the site. Sean Pearson seconded the motion. A roll call vote was taken as follows: YES – BC, DC, VJ, SP, DF. The motion carried 5-0-0.

David Chenelle moved to grant the Special Permit to Paul and Laurie Martin for the purposes of adding a deck to the first floor to the property located at 203 Main Street according to the above stated findings of facts, and the submitted plans. Vicky Janicki seconded the motion, and a roll call vote was taken as follows: YES – BC, DC, VJ, SP, DF. The motion carried 5-0-0.

Lastly, David Chenelle moved to authorize Board Chairman William Cadogan to sign this Finding Decision on behalf of the Board Members participating in the vote. Seconded by David Funaiole. All Members voted in favor by a vote of 5-0. Motion carried.

3 **CORRESPONDENCE:** votes may be taken.

- 3.1 Bulletin RE: May 8, 2021, Annual Town Meeting Attached Articles 18, 19 and 23 approved by the Attorney General. Received by the Office of the Zoning Board of Appeals on August 05, 2021. Noted.
- 3.2 Memo from Board of Selectmen to Planning Board dated 9-16-2021 re: renewal Applications for 2021 licenses Alcoholic Beverages/Common Victualler/Class I, II, & III licensees.
- 3.3 Email from USGS-FEMA Risk MAP projects in New England to Chaz Sexton-Diranian copied to Bill Cadogan, Chairman, Townsend Zoning Board of Appeals. Re: Prelim – EAP to Town of Townsend [Flood Insurance Rate Maps (FIRM)]

DF moved to adjourn at 7:00 pm. DC seconded. Roll call vote was taken as follows; YES – DF, VJ, SP, DC, BC.

Items on file:

- 1. Application packet and file - 18 Main Street Hannaford Bros., LLC.
- 2. Application packet and file - 203 Main Street Paul & Laurie Martin.
- 3. Bulletin RE: May 8, 2021, Annual Town Meeting Attached Articles 18, 19 and 23 approved by the Attorney General.
- 4. Memo from Board of Selectmen to Planning Board dated 9-16-2021 re: renewal Applications for 2021 licenses Alcoholic Beverages/Common Victualler/Class I, II, & III licensees
- 5. Email from USGS-FEMA Risk MAP projects in New England to Chaz Sexton-Diranian copied to Bill Cadogan, Chairman, Townsend Zoning Board of Appeals. Re: Prelim – EAP to Town of Townsend [Flood Insurance Rate Maps (FIRM)]

Respectfully submitted,

Elizabeth Faxon

Approved on: November 17, 2021

Zoning Board of Appeals Admin., Town of Townsend

