

**Enfield Zoning Board of Adjustment – Meeting Minutes**  
**DEPT OF PUBLIC WORKS/MICROSOFT TEAMS**  
**PLATFORM**  
**October 11, 2022**

**ZONING BOARD OF ADJUSTMENT MEMBERS PRESENT:** Mike Diehn (Chair), Susan Brown (Vice Chair), Brian Degnan (via Microsoft Teams, left early in the meeting), Madeleine Johnson, Cecilia Aufiero, Tim Lenihan (Alternate)

**ZONING BOARD OF ADJUSTMENT MEMBERS ABSENT:** Ed McLaughlin (Alternate)

**STAFF PRESENT:** Rob Taylor- Land Use and Community Development Administrator, Whitney Banker-Recording Secretary, Ed Morris (Town Manager), Roy Holland (Enfield Police Chief)

**GUESTS:** Kurt Gotthardt

**I. CALL MEETING TO ORDER:**

Chair Diehn called the meeting to order at 7:03 p.m. and took attendance of members present.

Chair Diehn seated Mr. Lenihan on the board as a full voting member for tonight's hearings.

**II. PUBLIC HEARINGS:**

**A. Land Use Case # Z22-10-02, The Town of Enfield, NH is seeking variance relief from the Enfield Zoning Ordinance Article IV, section 408 (SIGNS) to install and operate an LED Message Sign at the Enfield Community Building, 308 US Route 4 (tax map37, lot 34). Specifically, the request is to have messages that change on the sign more than once in 24 hours (section "D", paragraph "5. displayed message") and the Town also wishes to display messages to the public 24 hours a day and seven days a week (section "D," paragraph "6. Hours of Illumination"). The parcel in question is located within the Community Business District (CB) and is owned by the Town of Enfield, NH.**

Mr. Taylor read the case.

Chief Holland submitted materials to board members to review. He explained that the first three pages were pretty much the same as in the original packet they had. Several photographs were added to illustrate where the sign will be placed and where the LED display board will be placed.

Chief Holland said that the board is photosensitive. It has the capability of remote access in emergencies (road closure, water main break, etc.) and to prepare for significant weather systems (winter storm warnings, school closure, etc.). The Fire Department would also have access.

Chief Holland said this would also be a sign to get information to community members, such as access to COVID booster shots. He said that they do not want to put videos on the sign but information for community members.

Chief Holland did not find any research that supported that these signs relate to a significant increase in traffic accidents. There was one study regarding highway signs like this causing issues. Chief Holland said that both Canaan Police Department and the Mascoma Valley Regional High School have signs of this nature. The signs have caused no recent vehicular accidents.

Chief Holland said that the drive time is about 10 seconds from East to West. From the other direction, the drive time is closer to 14 seconds. They anticipate changing the sign every 20 to 30 seconds.

Vice-Chair Brown asked how tall the sign would be above the ground. Chief Holland said 120" total (10') to the top of the sign. Vice-Chair Brown said that she is very distracted trying to read the High School sign. Chief Holland said that the sign is only 3' tall and 7' wide. Vice-Chair Brown said that it is difficult to read the high school sign when there are a lot of words on it. Chief Holland said that the quality of the sign they are proposing here is much higher quality than the one used at the high school.

Vice-Chair Brown asked how they would advertise between the two sign boards. Chief Holland said that the existing sign board would go away and be replaced by this. Mr. Lenihan asked whether private entities could use this sign purchased by the town. Chief Holland and Town Manager Morris said that they anticipated using it for community events (such as the Enfield Market). Mr. Lenihan said that he would expect community members to ask if certain entities can use the sign and why can't everyone. Mr. Lenihan said that their non-government announcements would be allowed on this sign. Town Manager Morris said that they would be minimal.

Ms. Aufiero said that she thought there were better ways to get information to community members than the signage. Many do not drive through that area on Route 4 and would not see it. She said that she is also concerned about the resistance from the public over time to have signs like this. She said that she looked up digital signs and safety and found many studies saying they pose safety concerns. She shared one example from Transportation Research/Multi-Model Transportation. She read from the study, "Driver distraction is recognized because the most

81 critical safety issue worldwide. Roadside advertising is [a potential distraction].” She said that  
82 tonight she drove by this area, and there is a lot of signage. It is also a bad corner for traffic  
83 issues. She said that she felt the town could best communicate with community members  
84 through the internet (this was done well during the shutdowns at the beginning of the COVID  
85 pandemic).

86  
87 Vice-Chair Brown said that she agreed with Ms. Aufiero. She suggested putting the sign on Main  
88 Street by the large parking lot where the flag is, where residents would see it. She said that she  
89 also agreed with Ms. Aufiero that she avoids that area of Route 4. Ms. Johnson asked why the  
90 sign was going to be placed at this site and if this was because something had always been there  
91 or if there was another reason. She also asked what the lighting looks like on the sign (is there an  
92 image, or can one be found to illustrate what it will look like in real-time). Town Manager  
93 Morris said that they chose this location because the Community Building is there and it is the  
94 town’s emergency cooling and warming shelter. Mr. Lenihan said that it is also where town  
95 voting takes place. Town Manager Morris said that the sign is more like a screen or menu board  
96 than with lighting around the way Canaan Police Department and the Mascoma Valley Regional  
97 High School (MVRHS) have.

98  
99 Ms. Johnson asked if there was research they had found that showed how many seconds the  
100 average person needs to read signage. Town Manager Morris said that they found a lot of  
101 research but looking at the statistics to see what is happening, they weren’t seeing this. Ms.  
102 Aufiero said that she was seeing it. Chief Holland clarified that the National Highway Safety  
103 Administration shows that, specifically, a changing sign is no different a distraction than the  
104 marquee sign that already exists in this location. He said that Ms. Aufiero is correct that any sign  
105 will cause distraction and increase safety concerns. Ms. Johnson agreed that the content of the  
106 sign and what is input also factor into how distracting this will be. Ms. Aufiero said that they are  
107 setting a precedent here. They had heard a sign proposal that was denied previously.

108  
109 Mr. Lenihan said that the current portable sign is illegal, but the town has let it pass. He said that  
110 the sign has been there a very long time and is in disrepair. He said that he also had an issue  
111 because they told Mr. Bergeron (owner of Jake’s) that he could not have a light-up sign for the  
112 gas station. This property is across the street and is an abutter. He said that he also likes the idea  
113 of putting town government items (emergency information, fire department information, etc.).  
114 Still, if they allow other non-government things, this contradicts what they told Mr. Bergeron  
115 recently.

116  
117 Chair Diehn said that this is a situation where he would see the substantial justice criteria failing.  
118 Mr. Taylor said that the zoning ordinance was recently changed to allow this sign.

119  
120 Mr. Lenihan asked what the cost of the sign was. Town Manager Morris said that the grant was  
121 for about \$27K. Mr. Lenihan said that that he has heard is that it is a very nice sign, but we are

122 going to put in a sign that will attract a lot of attention. He asked if Town Manager Morris and  
123 Chief Holland would agree. He said that people would notice the change. He said that there is  
124 also the abutter who was recently told they could not have a sign like this, and there are  
125 apartments across the street at Anne's Place.

126  
127 Ms. Aufiero said that she felt that Route 4 would start to look like West Lebanon with this type  
128 of sign.

129  
130 Mr. Lenihan said that he wanted to point out that, for the record, the sign will attract a lot of  
131 attention. He said that he would be more likely to support it if it was used only for town  
132 government things, and he would be more likely to support it if it were in front of the town  
133 safety complex (they are usually located here). He said that he wanted to know whether there  
134 was no taxpayer money in the sign (there is not).

135  
136 Mr. Degnan left the meeting (via Microsoft Teams).

137  
138 Chair Diehn reminded board members what they were asking for. They are asking for a variance  
139 to display messages more frequently than the zoning ordinance would allow and to run the sign  
140 outside the permitted hours.

141  
142 Ms. Johnson asked to be refreshed on the regulations. Chair Diehn said that it is allowed to be  
143 changed once every 24 hours.

144  
145 Chair Diehn said that the board should discuss how often they can change the sign and the hours  
146 they can display it. Mr. Lenihan said that any aggrieved party could appeal the decision made.

147  
148 Vice-Chair Brown said that Mr. Bergeron had recently purchased the Brownie's property to put  
149 in a car wash so that the signage issue may come up again from him. She said that she also felt  
150 that putting the sign on Main Street was a better place for local traffic. She said that she thought  
151 the Route 4 traffic was more like an interstate and had less local traffic. Mr. Lenihan said that he  
152 felt that light pollution might become an issue with more residential properties on Main Street.  
153 He said that some cars may not live off Route 4 but may drive by for Jake's or the elementary  
154 school, etc.

155  
156 The 11K to 14K people who drive by the Route 4 sign may share messages they see on the sign  
157 with more community members on social media who may not drive by the sign.

158  
159 Ms. Aufiero and Vice-Chair Brown asked why they could not put the sign in front of the new  
160 Public Safety Complex. Town Manager Morris said the grant was applied for this specific  
161 location, in front of the community building (the town's emergency cooling and warming  
162 shelter). Ms. Aufiero asked if they must put the sign there as part of the grant. Town Manager

163 Morris explained that they specified the location as part of the grant application.

164  
165 Mr. Lenihan asked if board members felt they had heard what they needed to hear.

166  
167 **Mr. Lenihan MOVED to grant the application with the exception that only the town**  
168 **government and the Lions Club be allowed to use it.**

169  
170 Mr. Gotthardt asked if they had specified how often they would change the sign earlier. He asked  
171 if it would be multiple messages that would rotate through. Town Manager Morris said it would  
172 depend on how many messages they have at a time. They do not plan to have many messages at  
173 any one time according to Chief Holland.

174  
175 Mr. Gotthardt said that the ordinance specified the size of everything, and it sounds like they also  
176 exceeded that. Mr. Taylor said that it might be up to 12' from the ground level and is not to  
177 exceed 40 square feet including the supports. Chair Diehn asked if the sign exceeded the limit.  
178 Chief Holland said that the square footage of the sign is 21. Mr. Taylor illustrated on the  
179 whiteboard what areas of the sign they include in square footage. Void space (between signs and  
180 between posts) does not count. Chair Diehn asked what the total square footage is between both  
181 signs and posts. Mr. Taylor said that about 42 square feet. The ordinance is 40 square feet max.  
182 Chair Diehn said that this would mean the sign is 2 feet over the limit.

183  
184 Mr. Gotthardt said that the ordinance speaks to flashing and rotating signs. From a public point  
185 of view, he finds these distracting and unappealing. He said that from a safety point of view, it is  
186 likely less than texting and driving. He said that he would suggest solid, single messages be used  
187 versus flashing messages. `

188  
189 Mr. Gotthardt said that he agreed with Mr. Lenihan's earlier comment that the current sign is  
190 obsolete and should be removed.

191  
192 Vice-Chair Brown said that light pollution is a problem, and she hopes they will turn off the sign  
193 from 12 am to 6 am.

194  
195 Ms. Johnson said that she would suggest they set a time condition. She said that she would also  
196 feel better if she understood the sign and could see what it could do. She said that within the  
197 conditions, they could look at the sign's capabilities and limit images, etc. Chair Diehn said that  
198 they should decide the limits they want and let them figure out how to use them.

199  
200 Mr. Lenihan said that he believed that they have a time limit on using the grant; Town Manager  
201 Morris agreed. Mr. Lenihan said that he felt some of these things could be used by other entities  
202 (like the Energy Committee).

204 **Mr. Lenihan MOVED to grant the application with the condition that the sign only has**  
205 **information from the Town of Enfield or Lions Club.**

206 ***Seconded by Vice-Chair Brown***  
207

208 Ms. Johnson asked if they wished to add conditions of the hours it can be on and the colors used.  
209

210 Ms. Aufiero asked who from the town could use it – would it be the Enfield market? Mr.  
211 Lenihan said that no, specifically the Town Manager’s Office (Selectboard, Zoning Board,  
212 Elections). He clarified the Town of Enfield Government information or the Lions Club  
213 information. Chair Diehn asked what the town thought about that. Town Manager Morris said  
214 that town-sponsored events (like the market) should be included. The recreation department runs  
215 the market. Mr. Lenihan said that he disagreed that the market would qualify because it is a  
216 commercial operation, and that is the problem since they said no to a business across the street.  
217

218 Town Manager Morris said they are looking for a variance to change the sign and hours of use.  
219

220 **Chair Diehn MOVED to amend the motion to strike the condition that only town events be**  
221 **posted on the sign.**  
222

223 ***Mr. Lenihan withdrew his motion.***  
224

225 **Chair Diehn MOVED to approve the application as submitted with the condition that the**  
226 **messages can only be changed at a particular frequency.**  
227

228 Chair Diehn asked if once every hour would be sufficient. Town Manager Morris said this would  
229 be sufficient for a normal time.  
230

231 Chair Diehn said that he felt as if the market could be considered a town-sponsored event. He  
232 asked if multiple messages could be displayed. Chief Holland said yes. Town Manager Morris  
233 said that he would prefer a scroll of single messages to many lines.  
234

235 Chief Holland said that he agreed with the condition for Town of Enfield events and conditions  
236 of emergency. He said that he felt if they start with a 30-second time limit, one driver would  
237 likely see only a single message. He said that the time limit would mean that the message cannot  
238 change more frequently but would allow for a quick change in emergencies.  
239

240 Chief Holland said that this was a group effort. Chair Diehn said that this would have been good  
241 to hear at the beginning that it is a group effort. Chief Holland said that many of the concerns  
242 brought up to the table today were previously discussed. He said that they had a mock-up of the  
243 sign come so they could assess the quality. They did not want a pixelated and distracting sign. He  
244 said that the sign is quality and represents Enfield well. He said that his recommendation would

be Enfield Community and Public Safety messages, with a minimum of 30 seconds between sign changes.

Mr. Taylor said that the ordinance says signs may be illuminated one hour before and after business operations; however, there is a carve-out that nothing shall limit illumination time for signs to be used for warning or directional and safety purposes. He said that this means the regulation allows the sign in emergency use. Chair Diehn said that he agreed. He said that this would mean they turn off the sign outside of regular business hours but can use it in an emergency. Ms. Johnson asked if they should specify sign use by public safety if needed; Mr. Lenihan and Chair Diehn said that they did not think it was necessary (the ordinance allows this).

Chair Diehn asked members to make brief statements for any further relevant points.

***Ms. Johnson MOVED to grant the application for the digital sign as requested in the application.***

***Seconded by Chair Diehn***

**Roll Call Vote:**

Mike Diehn (Chair), Susan Brown (Vice Chair), Madeleine Johnson **all voting Yea.**

Cecilia Aufiero, Tim Lenihan (Alternate) **voted Nay.**

**None Abstained.**

***\* The Vote on the MOTION was approved (3-2).***

Ms. Aufiero asked to amend it to be used only after hours for emergencies. Mr. Lenihan said that he did not think this was necessary per the ordinance. Chair Diehn said that no variance is needed for use after hours.

**Criteria:**

1 – The variance will not be contrary to the public interest.

Most board members agreed. Mr. Lenihan and Ms. Aufiero felt that allowing other non-town committees (such as the farmers market) to post on the sign should not be permitted.

2 – The spirit of the ordinance is observed.

Board members agreed.

3 – Substantial justice is done.

Board members agreed.

4 – The values of surrounding properties are not diminished.

Most board members agreed. Mr. Lenihan expressed concern about allowing the LED sign after telling a business owner across the street that he could not have one for gas prices.

5 – Literal enforcement of the provisions of the ordinance would result in unnecessary hardship. Board members agreed.

Findings of Fact:

- The intersection is very crowded.
- The area is already visually cluttered.
- The community building is the emergency cooling and warming shelter.
- The current sign violates the ordinance.
- The town has said that they are going to install this regardless of the ZBA's decision.
- The ordinance allows a sign for safety 24/7
- The sign is 2 square feet over the ordinance limit.

**B. Land Use Case # Z22-10-01, Mickey's 603 LLC is seeking variance relief from the Enfield Zoning Ordinance Article IV, section 401.4(P) to place temporary structures within fifty feet setback from the seasonal high-water line of any river, stream, or wetland, lake, or public pond. The business is located within the Community Business (CB) Zoning District and the lot is 0.58 acres in size. The business and parcel are owned by Mickey's 603, LLC (Nicholas Yager and Maria Limon, proprietors).**

Mr. Taylor read the case.

Chair Diehn asked if the owners of Gusanoz had purchased Mickey's. Mr. Yager said yes, that is them.

Mr. Yager said that they are asking for permission to use their patio area in the wintertime by using four igloo structures. The structures are temporary, with an aluminum frame and a plastic shell. They allow outside seating for one party per igloo. He said that this affords more socially distanced dining even in the winter for community members who prefer this. He said that they also make for a pleasant experience in the fall and spring (and they believe the winter in many cases) for a different type of environment. This will make Mickey's a nice destination spot. He said they also hope to rebrand in a month or two and want to elevate the dining experience.

Mr. Lenihan said that they have these at Cheers in Concord and are always full. They are popular. Vice-Chair Brown agreed.

Vice-Chair Brown said that she thought this was a seasonal creek, so it would not matter. Ms. Aufiero and Mr. Lenihan said that it is wetlands.

Mr. Lenihan asked about the platform surface the igloos would sit on and whether it was decking. Mr. Yager said that this would be a second phase if they find that the igloo is a draw for

customers, they would like the ability to put a deck in the future. Chair Diehn asked Mr. Taylor about decking. Mr. Taylor said that they used structure so that it would cover them for any future decking in addition to the temporary igloos. Mr. Yager said that they would not be looking to build a structure with walls and a roof.

Chair Diehn said that if they give the variance, would they technically give the variance to allow a future owner to build a structure there? Ms. Johnson suggested saying there can be no permanent vertical surface. Vice-Chair Brown said that the lot slope limits future building area because it would cut into the parking lot and access. Chair Diehn clarified that a future owner could see the approved deck and build a large storage shed. Vice-Chair Brown said that there was a surface at the boat launch in Orford that would be an excellent potential choice. Ms. Johnson said that it is a grid system. Ms. Johnson said that they could specify not to have anything higher than a railing for safety, for example. Mr. Yager said that the only other thing in place is tall vertical posts for the outdoor lights.

Vice-Chair Brown said that they could ask for the deck in the future. Mr. Yager said that they would like to ask for the deck now so they can move forward in the spring with it if they wish. He said they would be happy with the conditions of what can be used.

Criteria:

1 – The variance will not be contrary to the public interest.

Board members agreed.

2 – The spirit of the ordinance is observed.

Board members agreed.

3 – Substantial justice is done.

Board members agreed.

4 – The values of surrounding properties are not diminished.

Board members agreed.

5 – Literal enforcement of the provisions of the ordinance would result in unnecessary hardship.

Board members agreed.

Chair Diehn said that he was not sure he saw a need for the variance here. Mr. Taylor said that the ordinance defines structure as anything “temporary or permanent.” These are placed on the ground. Ms. Aufiero said that she thought they had come in previously. Mr. Taylor said that they came in for a site plan review, and the Planning Board suggested they come to ZBA for a variance.

Chair Diehn said that allowing the use of the area year-round does not impact the town or the wetland.

Findings of Fact:

- 373 • The area is covered by gravel today
- 374 • The site is used for outdoor seating in warm months
- 375 • Allowing this will not have any other impact on the land

376  
377 Ms. Aufiero said that she is wondering if they put a deck to allow water to go through it into the  
378 gravel. Mr. Yager said that this was their intent. Ms. Aufiero asked for this to be included in the  
379 motion conditions.

380  
381 ***Chair Diehn MOVED to grant the application with the condition that the decking is built to***  
382 ***allow water to pass through to the soil and that the deck never be further developed.***

383 ***Seconded by Vice-Chair Brown***

384

385

386 **Roll Call Vote:**

387 Mike Diehn (Chair), Susan Brown (Vice Chair), Madeleine Johnson, Cecilia Aufiero, Tim  
388 Lenihan (Alternate) **all voting Yea.**

389 **None voted Nay.**

390 **None Abstained.**

391

392 ***\* The Vote on the MOTION was approved (5-0).***

393

394

395 **III. APPROVAL OF MINUTES: June 14, 2022**

396 ***Vice-Chair Brown MOVED to approve the June 14, 2022, Minutes presented in the October***  
397 ***11, 2022, agenda packet as presented and amended.***

398 ***Seconded by Mr. Lenihan***

399

400 **Roll Call Vote:**

401 Mike Diehn (Chair), Susan Brown (Vice Chair), Madeleine Johnson, Cecilia Aufiero, Tim  
402 Lenihan (Alternate), **all voting Yea.**

403 **None voted Nay.**

404 **None Abstained.**

405

406 ***\* The Vote on the MOTION was approved (5-0).***

407

408 **IV. NEW BUSINESS:**

409 **A. Changes in Zoning Ordinance to Planning Board:**

410 Chair Diehn said that Planning Board Chair David Fracht solicited the input of the ZBA in mid-  
411 September. Ms. Aufiero asked why they were in a hurry. Mr. Gotthardt and Chair Diehn said  
412 that it was to do with timing to get things on the warrant for Town Meeting 2023.

413

414 Mr. Lenihan suggested a fine schedule for people who have ordinance violations. Board

members agreed. Mr. Lenihan suggested that the Planning Board or Land Use Administrator could impose it.

Mr. Lenihan suggested an update on the setbacks between private and town-owned roads. Chair Diehn said that some people believe that on a private road, no setbacks are required or that the setback is from the road's center line. The footage varies from the center line based on the zone for the town-owned roads. Chair Diehn said that what they need in the zoning ordinance is clarification for setbacks regarding private versus public roads.

Mr. Taylor said that they recently spoke with the municipal attorney, and the way it is written in the ordinance says "to street" but does not specify public versus private street; the ordinance as written covers this. Chair Diehn said they needed to refer to setbacks regarding the lot line (not distance from the street).

Chair Diehn said that he believes they are talking about whether there is a difference in where the setback starts on public versus private roads. Mr. Lenihan said he would like it to be returned to the Planning Board for discussion. He said that he feels a road is a road; it does not matter who owns it.

Chair Diehn said they would look at the road (such as Hawley Drive) as a street, and the property line to the street, then discuss setbacks that way.

Chair Diehn clarified that the board believes the language as is will be OK, but would like the Planning Board to look at it.

Ms. Aufiero said that she would like clarification on the height of 35 feet to the top of a house and where that is measured from. She said that there is nothing to stop someone from building up a large amount of dirt and then putting the house on top of that. Mr. Taylor confirmed that the elevation restriction is 35 feet in all residential districts.

Vice-Chair Brown said that if setbacks are changed, everything that exists is grandfathered. Chair Diehn said that they want to clarify these things for future hearings.

## **B. Sign Ordinance**

Mr. Lenihan asked Mr. Taylor to speak with the new owners of the former skating rink to remove the sign for the same reasons they wish to remove the Community Building sign.

## **V. OLD BUSINESS:**

None.

## **VI. NEXT MEETING: November 8, 2022**

*Enfield Zoning Board of Adjustment Minutes, October 11, 2022*

456 Mr. Taylor said that the board would meet next month, and he has received two variance  
457 applications for that meeting.

458

459 **VII. ADJOURNMENT:**

460

461 **Chair Diehn adjourned the meeting at 8:53 pm.**

462

463 Respectfully submitted,

464 Whitney Banker

465 Recording Secretary

466