

SOMERSWORTH ZONING BOARD OF ADJUSTMENTS
MINUTES OF MEETING
September 1, 2021

MEMBERS PRESENT: Matt Keiser Chair, Richard Brooks, Keith Perkins

EXCUSED MEMBERS: Glenn Garvin-Alternate, Kenneth Vincent, Brad Fredette

STAFF PRESENT: Michelle Mears, Director of Development Services, and Dana Crossley
Planning Secretary

The meeting was called to order at 7:10PM.

1) Approval of the minutes:

Brooks **MOVED** to accept the August 4, 2021 minutes as presented.

Perkins seconded the motion.

The **MOTION CARRIED** by a 3-0.

2) OLD BUSINESS

A) Any old business that may come before the Board. - NO other old business.

3) NEW BUSINESS

A) Aspen Dental by Tracey Diehl, is seeking a Variance from Section 19.20.D.4.a to allow two (2) wall signs that total in 67 SF on a property located at 8 Tri City Plaza, in the Residential/Commercial (R/C) District, Assessor's Map 40 Lot 5C, ZBA#11-2021 **PUBLIC HEARING**

Keiser opened the public hearing.

Keiser stated there are three Board members present, does the applicant wish to move forward with a three-member Board.

Tara Puntasecca of Expedite the Diehl of behalf of Aspen Dental was in attendance to represent the application.

Puntasecca stated she wished to move forward with the three-member Board.

Mears stated the applicant is seeking approval to install two wall signs that total in 67SF. There is an existing 18SF free standing sign that will be refaced and continue to exist. The site is allowed 63 SF in total signage by right. With this request for the 67SF of wall signage, it would bring the total signage to 85 SF of signage for the site.

Puntasecca stated Aspen Dental is a National Dentist meaning if there is a transient motorist or tourist in the area, they would know to seek out an Aspen Dental for dental needs because they would accept many different types of insurances. Aspen Dental provides a section on their website with tips and advice on how to overcome dental anxiety, and if you are someone seeking a dentist due to an emergency, signs are needed to locate the property. Signage for medical facilities the signage could make it or break it for someone.

Puntasecca stated they are proposing the building at 8 Tri City Plaza, parking lot entrance is along High Street and the property fronts the shopping plaza. It is at the corner of Tri City Road and High Street. She stated it is a unique layout and motorists traveling within the Plaza will need signage along the eastern elevation to identify the destination. The property will be visible from the south, west and north so the ground sign in place now that will be re-faced, would not be visible from the main point of entry of the building. It is imperative that people be able to locate the destination safely at all times especially while under duress. She stated they are seeking a variance to allow signage on the east wall that will be 33.5 SF and the south wall in the amount of 33.5 SF which exceeds the allowance for this site.

Puntasecca stated when the signs are designed, legibility is considered with speed limits and setbacks in mind to be able to read the sign. The Aspen Dental logo is linear, if scaled down it will be that much smaller and legible. That is part of the design review along with the aesthetics within the community and the scale of the sign on the building. She stated the signs as proposed are to scale and elegant as well as in line the surrounding signage. The main issue with this proposal is due to the layout of the building and frontage being measured.

Puntasecca stated they have submitted finding of facts and responses to the 5 criteria. She stated signs being requested here are to the health, benefit and service provided to the members of the community and transient motorists. The signs notify citizens of their destination and dental services can be provided on an emergency basis. Signs requested will be consistent with the signs in the area and are in harmony with the current zoning ordinance aesthetic allowances. Without the signs the motorists in need of emergency dental services may not be able to find the location due to a state of anxiety or unfamiliar with the area. Find it important to have a legible sign on site. Depriving citizens of the knowledge of a health benefits service in a newly developed shopping center could be harmful to their health. Aspen Dental is a national dental service, national customer base, different kind of dentist than a local office. The hardship is not shared by others because it is the only dental office in this immediate area, the uniqueness of the type of dental service and location of the property creates a need for greater visibility for motorists. The zoning ordinance intent is to reduce sign clutter, this proposal of signage is in proportions to the walls they are being placed, necessary element to allow Aspen Dental to take its place in the community at this location. The service itself is a benefit. Due to the large amount of traffic in this area, there could be confusion if the signs are too small especially for those not from the area. The safety and welfare of the community being important, it should be considered. Aspen Dental is not seeking a sign that is prohibited but rather an increased area of what is permitted, to allow the signs to be clearly visible.

Keiser stated there is no public present and no comments received from the public.

Keiser clarified that the plans submitted have the signage on the west wall (facing High Street) but stated it was the east wall. The other sign would be on the south side of the building facing the parking lot.

Puntasecca stated that is correct, as shown on the plan set.

Keiser stated the two signs being discussed are 33.5 SF and there is an existing 18 SF.

Puntasecca stated they are seeking to have 85 SF, the wall signs together total in 67SF of signage and the existing sign is 18SF that they will be refacing. Aggregate of 85SF of signage.

Brooks asked how the applicant would describe these signs being consistent with the surrounding signage. Puntasecca stated that is her own testimony from viewing the site, did not measure the signs and is their best guess that the scale does not seem out of proportion. Feels it is the same judgement that would be used by a motorist.

Brooks stated the ordinance is based on overall size not proportion to building.

Puntasecca stated it would not harm the visual of the area based on the size they are proposing.

Brooks asked how it is not contrary to the spirit of the ordinance.

Puntasecca the ordinance is also in place to protect the health and welfare of transient motorists, with safety being number one and this is a medical facility, they feel the visual and concept of legibility is in line with what the ordinance is trying to achieve with safety. The building has four sides and they are not proposing signs on all four elevations not trying to take advantage of the ordinance or rather ask that signs be to scale and visible.

Keiser noted the request is for 22 SF more than what is permitted.

Puntasecca stated in consideration of the existing freestanding sign, if they were to remove that it would leave them at only a few SF over the limit. The freestanding sign from her perspective allows motorists from both directions to know the site is there, no wall sign on that elevation that fronts Tri City Road (north elevation). The request is the minimum necessary for legibility.

Keiser noted the hardship being claimed is the legibility of the sign, a smaller sign would be less legible is there any study to back that up.

Puntasecca stated they use a few sources for that purpose, one being the Sign Council of America, that considers posted speed limits and sign legibility. She stated that is something they use when determining size. The hardship is also the lot, since the building is set back from the main shopping area of Tri City Plaza, having experienced it first hand the confusion of locating the site when at the traffic intersection, the site is at the edge of the lot. The hardship is the lot itself and legibility. Think it would be the benefit to everyone to have a little bit larger of a sign for legibility based on the lot.

Brooks if there was no sign ordinance, wouldn't everyone just want larger and larger signage.

Puntasecca stated there are infinite realities it could be the case, not the case here not looking to take advantage, does not want to upset the City and ask for something that would not fit.

Brooks stated he is having a hard time seeing the hardship, there is an existing freestanding sign by the road, more in the line of sight and can still have signage on the building. A lot of the other buildings on the site are much further back and have to rely on the road signage and the signs on the building. Does not see the hardship.

Puntasecca stated the freestanding sign is perpendicular to the road and is not a large sign, not proposing to make that larger, does not know how effective that sign is. Not sure it would replace the need for a legible wall sign. During inclement weather a freestanding sign does not have the same power as a wall sign, making the wall sign smaller because the freestanding exists works toward safety.

Brooks inquired if it would be fair to say most people unfamiliar with the area looking for this site would use a GPS/view online.

Puntasecca stated she would think it to be unfair to assume everyone is up to date with technology. Not all GPS is updated or have the means to have a smart phone/does not use one. Feel from the expert opinion the greater good is to have the larger sign for visibility and safety, this is a medical facility.

Puntasecca inquired the location of this site, how long was it empty.

Mears stated it is being redeveloped the previous building was torn down.

Puntasecca stated from a City perspective this is an attractive building and thinks it should be safe too and would be a good thing for Somersworth. Stated all things should be considered, the shape of the sign and scale when made smaller effects the legibility, the lot is an interesting unexpected layout, access is not straightforward, working with the existing freestanding and proposing signs on two of the four facades.

Keiser closed the public hearing.

Keiser stated does not think the proposal would affect the surrounding property values. Does not think it would be contrary to public interest. Substantial justice would be done to use the pre-established sign layout. Comes down to the spirit of the ordinance and hardship.

Brooks stated for the spirit of the ordinance, proposing three signs some surrounding do not have that many. Stated he is afraid of the domino affect by granting a larger signage for this property and does not feel it is following in line with the ordinances.

Keiser stated there are some uniqueness to this property, in the parking lot where there is a larger building behind. There was a variance granted previously for the Staples unit because it was setback so far from the street. For this building it is relatively close to the road, they were granted a variance from the setback along Tri City Road but not High Street. This building is farther back than the previous building. Not here to determine if the sign is needed. To him in his travels the road sign is going to grab people's attention. Driving down High Street, freestanding signs are saw first before the wall mounted signage. Does not see where the uniqueness of the property creates a hardship for signage.

Brooks stated in discussion of the Staples sign recalls the discussion for that, the argument was that they are behind these front buildings, which was the hardship for that, this one is out by the road not being blocked and there is not the same hardship.

Keiser stated he cannot gather the hardship or uniqueness created for the purpose of allowing the increased signage. He noted the applicant has options if this is not approved, it is not for the Board to determine if a sign is needed or not.

Brooks stated he does not see the hardship or the spirit of the ordinance criteria being met.

Perkins stated he agrees and does not see the uniqueness for this property.

MOTION: Brooks stated, after review of the application, the file and all the information presented to the Board, I feel that two of the five criteria (#3 the hardship and #5 spirit of the ordinance) have **NOT** been satisfied and I move that the request of Aspen Dental by Tracey Diehl, for a Variance from Section 19.20.D.4.a to allow 85 SF of total signage at 8 Tri City Plaza **be DENIED.**

The MOTION is SECONDED by Perkins.

The MOTION CARRIES by 3-0.

B) Any other new business that may come before the Board.

Brooks **MOVED** to **ADJOURN** the meeting.

Perkins seconded the Motion.

The **MOTION CARRIED** 3-0 at 7:45 PM.

Respectfully Submitted,

Dana Crossley, Planning Secretary