

**Town of Wolfeboro
Zoning Board of Adjustment
April 1, 2024
DRAFT Minutes**

Members Present: Audrey Cline, Chair, Suzanne Ryan, Vice-Chair, Sarah Silk, Clerk, Jody Persson, Member, Chuck Sumner, Alternate, Sabet Stroman, Alternate.

Members Excused: Cate McMahon, Member.

Staff Present: Tavis Austin, Director of Planning & Development.

I. Roll Call

Audrey Cline called the meeting to order at the Great Hall at 7:00 PM. A quorum was present.

II. Public Hearings

1. Irving Oil Terminals, Inc/Cobalt Property-Irving Oil Property-

28 Center Street – Tax Map 218-018 – Case # 04-V-24 – Public Hearing for a Variance under §175-44 D (1) of the Wolfeboro Planning & Zoning Ordinance to allow an interior illuminated sign. Site visit held at 6:45 PM.

Sarah Silk, Clerk, reads case into record. See above.

Sarah Silk reads site visit into record: All members of the Zoning Board of Adjustment present at the site visit were Sarah Silk, Suzanne Ryan, Audrey Cline, Sabet Stroman, Chuck Sumner, Jody Persson. Also present were Richard Hanna, Catherine Caprio, from Irving, and Nathaniel Tinkerlewis. Mr. Hanna explained that the faces 5x7 would be slid out and a new face would be put in with the new Irving icon on it, and that they would pull out the old lighting and the LEDs would be lit for two price designations for the price of gas, and they would have goosenecks that would be exterior lighting that would come out on either side of the double sided sign for illumination.

Audrey Cline appoints Chuck Sumner, Alternate, to sit in for Cate McMahon, Member.

Ms. Cline states the applicant needs to prove that they meet all 5 criteria requirements, asks the applicant to come forward and make their case.

Rick Hanna, Construction project manager with Irving Oil, will be speaking to the signage. States also has colleague Catherine Caprio, operations manager, and Nathaniel Tinkerlewis, operator at location. Mr. Hanna reads explanations to the 5 criteria from application. Application can be viewed in its entirety in the file.

Ms. Cline asked what color the pricers would be.

Mr. Hanna replied they would be red.

Chuck Sumner stated the LEDs are considered internally lit, really what we're talking about other than that is external lights lighting up Irving Oil.

Mr. Hanna responded that the external lights would be gooseneck downward lights on the sign itself. The question is if the pricers are considered internal illumination or not.

Suzanne Ryan stated they have a conflicting statement under #2 for the criteria. It states, "would be willing to disconnect the existing internal lights and to add external lamp." If willing to do that then no need to be here because they can replace what's existing.

Mr. Hanna stated the sign today is internally lit as it stands. Going to remove internal illumination and then do the downward gooseneck lighting, taking away what is no longer allowed.

Ms. Ryan stated it was permitted prior to 2018. Seems the priority now is to go digital, so the price is no longer changed manually. Questioned if the numbers can be digital without being lit, and without the cabinet being lit.

Mr. Hanna replied the cabinet will not be lit based on proposal, but prices for fuel will be.

Ms. Cline questioned if the cabinet was lit the way it was approved with the addition of the digital pricers, would the pricers need to be independently lit with red, or would still be backlit from internal illumination.

Mr. Hanna responded the cabinet filled with lighting that illuminates the sign will not be there. The two pricers are their own units and lit independently from the internal lighting.

Ms. Silk stated there will be a big area not lit, a small area on the bottom which will have digits that will show. Asked for clarification if there will be back lighting behind the digits or only red lights showing the digits, and nothing flashing and no neon.

Mr. Hanna replied that is correct. The Irving logo will be lit with downward facing light per illumination regulations. Also, would like to note they are only open until 6 PM.

Sabet Stroman questioned if the LED lights have to be red or could they be white.

Mr. Hanna responded the spec is red and all Irving sites use red so would like to stay with that consistency.

Jody Persson stated they are grandfathered in for internally lit sign right now. Believe could add digital lights without applying for anything. The sign is run down. Stated changing completely internally lit sign, going externally lit to code, and have the lights down below.

Mr. Sumner stated there seems to be confusion on LED lights. LEDs have to be lit in order to make a number, otherwise only shows a series of 8's. So, no back lighting will work.

Mr. Persson questioned when the sign would be lit, from 6-6 and then shut off.

Mr. Hanna replied yes, Monday – Friday 6am-6pm, and Saturday-Sunday 8am-5pm.

Ms. Cline asked if anyone wanted to speak in favor or against this proposal. With no one coming forward close's public hearing.

It is moved by Suzanne Ryan to close public hearing. Sarah Silk seconds. All in favor. Motion passed (5-0-0).

There was discussion on how long the sign at Irving has not been turned on, and the original permit adding a buffer to cut the light pollution from the original sign in half.

Ms. Ryan stated the board needs to go through the 5 criteria. If it is felt that the applicant does not meet even one criteria, then the board must deny it.

1. Variance will not be contrary to public interest:

Ms. Ryan stated public interest has been very vocal about not having downtown over lit.

Ms. Cline stated small open LED lights were a change to zoning, as they were not previously permitted.

Ms. Ryan stated the trend has been to curb lighting, not to encourage it.

Ms. Silk stated the applicant is willing to make concessions with gooseneck lighting outside, and not have big rectangle sign back lit. Step in keeping with the direction the light ordinance on signs was headed.

Ms. Stroman asked for clarification on amendment saying it's okay to have LEDs.

Ms. Cline responded that in 2008 or 2010 none of the open signs lighted were permitted anywhere. The amendment was for open signs only.

Ms. Ryan stated it is contrary to public interest.

Mr. Persson stated they are currently permitted to be internally lit sign. Going external and digital will be a better-looking sign.

2. The spirit of the ordinance is observed:
Ms. Ryan stated it is not observed.

Ms. Cline agreed. The sign may be about the same size as permitted open signs in businesses, but this one is up in the air and has a bigger impact.

Mr. Sumner stated it is not contrary to public interest. As Ms. Silk said, the downward lighting proposal is an improvement over what they have now. The numbers are red LEDs, a little bit brighter than what is on an alarm clock radio. They do not provide much light.

Ms. Silk stated if you want to go to another point of view, if they light up a sign as big as what is currently there in a new sign, it would be greater of an interference. They are making an attempt to conform with the spirit of the ordinance.

3. Substantial justice is done:
Ms. Ryan stated the 7-11 argument having it isn't valid because it cannot always be assumed that something existing is correct. Substantial justice is done in an effort to do it, to keep business going, stay competitive, price updates quickly, and do as little damage to the night sky as possible. Cannot use 7-11 as an example, believed that went in 2012 which predated the 2018 changes. Not applicable.

Ms. Cline responded 7-11 got theirs in 2021. Asked Tavis Austin if it is a permitted use in C-2 district.

Tavis Austin responded that nothing has been C-2 since 2003.

Ms. Cline stated cannot compare the two as don't know if it is legally lit, and they are not in the same zone.

Mr. Austin pointed out that the sign ordinance does not differentiate between zones.

4. Values of surrounding properties will not be diminished:
Ms. Ryan stated there is no testimony other than the applicant's opinion, therefore will not weigh in on this one.

Mr. Sumner stated the sign will be getting painted and essentially refreshed, so it would be an upgrade.

Ms. Silk stated agrees with Ms. Ryan, there is no testimony from a realtor or broker.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because:

Ms. Ryan stated there is nothing unique about this property that makes it any different from other gas stations in town.

Ms. Stroman questioned if he gets a digital, then setting a precedent for the other two that they can have them.

Ms. Cline stated variances do not set precedent by their nature, because looking at a property there has to be a unique characteristic that allows to grant a variance to this property that we wouldn't allow for the others.

Mr. Sumner stated little enforcement of the provisions would result in unnecessary hardship.

Ms. Cline stated in order to speak to unnecessary hardship have to find a special condition.

Mr. Sumner responded an unnecessary hardship is sending an employee up a step ladder to change prices when technology would allow that to be done from inside the store.

Mr. Persson stated traffic and the way the pole is next to the road. Safety issue for employees.

Ms. Cline stated there are no special conditions with the property that would make it different than the other two gas stations in town that would allow us to waive the law for this one and not the others.

Ms. Silk stated the fact they have a sign that is lighted and willing to give up, makes it apparent they are trying to go near to compliance as possible.

Ms. Ryan stated the applicant needs to meet all 5 criteria in order to approve, and from discussion it doesn't sound like they do.

It is moved by Suzanne Ryan to deny case 04-v-24, 28 Center St, tax map 218-018, for Irving Oil – Rick Hanna. Audrey Cline seconded. Roll call vote: Jody Persson – no, Sarah Silk – no, Suzanne Ryan – yes, Audrey Cline – yes, Chuck Sumner – no. Motion does not pass (3-2-0).

It is moved by Sarah Silk to approve, with conditions that the large sign is down lit and only illumination is numbers in red, from 6am-6pm weekdays, and 8am-5pm weekends. Chuck Sumner seconded. Roll call vote: Jody Persson – yes, Sarah Silk – yes, Suzanne Ryan – no, Audrey Cline – no, Chuck Sumner – yes. Motion passed (3-2-0).

Ms. Cline stated variance is approved, have 30-day appeal period before paying for the sign.

Finding of facts:

- Variance would not be contrary to public interest – true, with the possibility to prevail with large lit sign, made effort with goosenecks and digital numbers lit up.
- The spirit of ordinance is to cut down on nighttime light pollution and they are trying to do that.

- Substantial justice is done for the safety of the employees by having to manually change signs.
 - Values of properties not diminished, no expert testimony on that.
 - Special conditions on this property distinguishing it from others is other gas stations do not have lit up signs, some do. They are willing to give up to comply with sign ordinance with the goosenecks and have agreed to a 6-6 for weekdays and 8-5 for weekends schedule.
2. **Goodhue & Hawkins Real Property, LLC – 121 Filter Bed Road – Tax map 190-26 – Case # 05-SE-24 – Public Hearing for a special exception under §175-196.1 B of the Wolfeboro Planning and Zoning Ordinance to permit boatyard use – Formal Submission/Public Hearing; Site visit held at 6PM.**

Sarah Silk, Clerk, read case into record. See above.

Ms. Silk read site visit into record: Zoning Board of Adjustment members attended Chuck Sumner, Audrey Cline, Jody Persson, Sarah Silk, Sabet Stroman, Cate McMahon was excused. The following members of the public also present, Gretchen Gandini, Jennifer Hoffman, Jeremiah Burke, Derek Brown, Cody Gray, Randy Walker, John Ross, Janet Vaughn, Carole Simon, Atilla Simon, and Kathy Dragonfly. Randy opened up explaining the lot was 40 acres and pointed out to the left-hand side of Filter Bed Rd where building 1 & 2 would be on the left side. He also pointed out stakes in the ground would be the front corners of the building. Numbers 3-9 would be on the right side of the road. Balloons had been up but noticed yesterday when doing an extensive walk around that they had been down. Trees are 60 ft high, pointed that out as the building would be 40 ft high. As we went down through he showed us the various in sundry stakes for all of the lots on the right hand side and then he pointed out there was a back corner by number 9 you could see a building through the woods that he believed was owned by Mr. Druin and also perhaps had boats stored in them. The town road was pointed out as ending at the sewer treatment plant and when questioned he advised Filter Bed Rd, although he had driven through, he would not recommend it. It is not really smooth enough for traffic, but it does come out on 109A. Also pointed out another stake that was the end of the property on the left side of the road opposite number 9.

Audrey Cline appointed Sabet Stroman, Alternate to sit in for Cate McMahon, member.

Randy Walker, Walker and Varney in Wolfeboro. Here with Jeremiah Burke and Cody Gray from Goodhue and Brian Walsh from Horizon Engineering who did the survey and engineering work. Stated asking for special exception to remit a boat yard use, purpose would be to allow Goodhue to build 9 new boat storage building. 10 years ago, this board permitted the property to be used as a boat yard, case 10-se-14. All the buildings proposed are much smaller than what is currently there. Surrounded by woods on all sides, very little impact on the area itself. Boat yard usage is defined in ordinance as “a parcel of land with or without building for the bulk storage of watercraft”. So technically would need buildings at all, but they protect the boats better.

Mr. Walker reads the introduction of the special exception and the 8 criteria that must be met from application. Application can be viewed in its entirety in file. Noted that they would be willing to pave a portion of Filter Bed Rd, but not bring it up to town standards. Gave board members letter from Keller Williams Realty stating this project would not have a negative impact on property values.

Sabet Stroman questioned what the driving route would be. Would it be Filter Bed Rd to Friend to get back to the boat house?

Mr. Walker replied yes.

Ms. Silk stated in the packet of info, there is a letter requesting the 38ft height be changed to 40ft, with a chart. Then in the application itself, page 8 another chart, 14 pages that contains 9 charts, all with different heights. Questioned if what is in the application accurate.

Ms. Ryan stated that letter is for the next case.

Mr. Walker responded that the chart in the application is correct.

Ms. Ryan stated in 2014 approved the storage for 300 boats. Remembers that it was stated the impact wouldn't be big and it could grow slightly, and good faith approval was done based on intentions. Questioned if addressed immediate neighborhood, proposing over a period of how many years to have 1162 boats. That's 1162 trips in and 1162 trips out. 2324 total trips. Immediate neighborhood impact says proposal is not temperamental, injurious and says to have abutting properties. What has not been addressed, typical impacts that extend beyond the proposed site include, if not 109A up Friend St, those people have the same rights to peace and enjoyment. These trips are excessing, and this would disturb 2 neighborhoods. Filter Bed Rd is not a road in the eyes of NH. Would need another special exception for Class VI Rd, and that the applicant does not have road frontage on a road.

Tavis Austin answered Filter Bed Rd is not a Class VI, and they do have frontage on 109A.

Jody Persson questioned if valet parking would be done at the water or at the proposed site.

Mr. Walker replied that there would be no valet happening at this property.

Chuck Sumner asked how many boats are currently stored there now.

Mr. Walker responded 300, could be more. Essentially at capacity. Building 1 would increase boat storage by 12. If were to build one of the bigger ones, would increase by 190. Buildings 3,4,5 – 160 boats per building with 30 for PWC's.

Mr. Sumner asked what the projected numbers are.

Mr. Walker responded that the plan was to build buildings 1,2,3. Two small ones and 1 big one, would be about 250-260 storage spaces.

Ms. Cline questioned if variances and special exceptions only last a certain amount of time before having to reapply.

Mr. Austin replied yes, 2 years. Can be extended by the Planning Board, up to 5years, unless vested.

Ms. Cline stated it does not sound like this is a vested project, doubling this price, which is still doubling the number, which is still less than half the total buildout. What was the thought process behind that?

Mr. Walker replied it came down to the cost. It was cheaper to do all this at once compared to if they were to piece meal it together.

Ms. Silk asked what the range in length of the boats stored would be.

Jeremiah Burke, General Manager of Goodhue location in Wolfeboro, replied the average is 23-28ft, however they do have a few of the larger boats of up to 33ft.

Ms. Stroman asked if there would be limitations put on the length of boats they would store.

Mr. Burke replied that they are not set up to service the large boats.

Ms. Stroman stated a letter the board received stating there is a lot of noise associated with loading and unloading boats at the marina. Will there be the same amount of noise at Filter Bed also?

Mr. Burke replied that letter was from a resident who they also do boat services for, that lives 2 properties down from the marina. Does not believe noise would be of great impact as the beeping is not that loud.

Ms. Silk questioned if there are back up beepers on vehicles that pull the trailers down with the boats on them.

Mr. Burke replied no, they are standard pick-up trucks.

Mr. Persson asked how many fork trucks they have.

Mr. Burke replied they have a total of 3 between all locations, and that 1 should be more than enough at this site even with all the new buildings.

Ms. Ryan stated Filter Bed Rd is not a road. Statute refers to the street giving access to the lot. Lot has to have actual frontage on one of 5 types of streets in 674:41.

Ms. Cline questioned the nature of travel way on Filter Bed Rd.

Mr. Walker replied that it is an easement, and 3 maybe 4 property owners have that. Property owners that touch it had the right reciprocally to go over it. 50ft of frontage on 109A.

Mr. Austin stated statute requires frontage onto Class I-V, it does not require access from said frontage.

Ms. Cline stated there would be impact on the 160 housing units that are approved abutting this property.

Mr. Austin stated there is no housing project approved. Project was withdrawn.

Ms. Cline stated they approved a variance therefore at some point someone could build that project. The joint traffic out onto Filter Bed Rd when this area does get developed is concerning.

Ms. Cline asked what the percentage of boats registered to Wolfeboro residents is.

Mr. Burke replied he does not have the percentage, but a lot of Wolfeboro residents store and service their boats with them.

Ms. Cline asked how many boats they have now.

Mr. Burke replied between PWC's and Boats, approximately 800 total between storage buildings.

Ms. Cline questioned if the Town of Wolfeboro is carrying the weight of traffic for delivery of boats for people that don't live or own property in Wolfeboro and not seeing any benefits for it.

Mr. Burke responded this has a good impact on the town. People are recreating here, spending money, supporting local businesses. Positive impact on the town's economy.

Ms. Cline asked where the boats get drained and serviced.

Mr. Burke stated they have a systematic process in place to winterize boats. All of this happens at the marina. Infrastructure at Sewall Rd was set up to do all of that there.

Ms. Silk questioned when winterized do they leave no fuel in the boats.

Mr. Burke replied it's stabilized by adding fuel additive to the fuel.

Ms. Cline asked if the facility on Filter Bed is locked or if they have it fenced in.

Mr. Burke responded they have security cameras, and both boat and man doors are locked.

Ms. Cline asked if the current site plan that was approved includes all the outside storage of trailers.

Mr. Burke replied that they will have some availability to park trailers on the ground level of the storage buildings. Working on trying to get some of the trailers seen during the site visit back to the owners.

Public Comment:

Julie Wood, Taylor Community. Speaking in favor of, as the property owners have been very generous to allow them to use property to walk. However, stated GPS brings boat carriers through Taylor Community. Boats make a lot of noise when bouncing on trailers. Also, a safety issue with pedestrians walking in this neighborhood as they are elderly, not very good of hearing or seeing. Stated trucks are coming and going all year long. Activity at the property all winter long, boats move there, go there and leave there.

Bob Lamare, Sewall Rd. Stated Goodhue Marina has done great work, but is concerned about the growth. Controversy 10 years ago about an increase in traffic, and it has come true. Increasing the load on Sewall Rd is contrary to public interest to all the residents on Sewall Rd. Most drivers are pretty courteous, however can find trucks with boats parked in the road, leaving it as one lane even in the winter.

Russ Abeneck stated has lived next to the marina for 20 years. Businesses don't grow in bits and spurts, in different locations, they grow all together. If the facility reaches full capacity, it will ruin Sewall Road.

Dave Shannon, 31 Sewall Rd. stated strongly opposed, as the expansion will negatively impact residents of Sewall Rd and other neighborhoods including Filter Bed Rd, Friend St, Varney Rd, North Main St, and Mill St. Noticeable increase of congestion with traffic, and safety hazards on Sewall Rd. Additional storage will only exacerbate these issues. Questioned how much storage they have in the covered storage at Sewall Rd and how many valet contracts they have. What would prohibit them from doing valet services in the future from the off-site storage area?

Sandy Wentworth stated it has always been an understanding from boards that financial issues are of no concern to them, but it was one thing that Mr. Walker brought up, and it was mentioned by someone else all the money it is bringing in. Should not be the concern of the board.

Barbara Wood, 41 Taylor Dr. Stated not opposed to the buildings but is opposed to the traffic, dust, dirt and noise. Questioned no maintenance on boats being done at this site.

Kathy Dragonfly stated the lake is the biggest asset the town has, and there has been no discussion on how this would impact the lake. Questioned if the boat storage would have open front canvas or closed doors? It's a nuisance to walkers and there is too much traffic. Taking the quaint out of the town.

Janet Vaughn, North Main St, stated seeing the trucks pulling boats down every day. It isn't just one trip up and one trip down. It's 4 trips for one boat.

Derek Brow, Libby St, stated increase traffic on Libby St due to people trying to avoid boat traffic. Should have an independent traffic study done. As for the site visit, there were trailers everywhere, which creates hazard and safety obstacles.

John Ross, abutter to the Goodhue & Hawkins property, stated likes living next to a boat storage. Traffic during the day, nothing at night. Good neighbors, and they show pride in their ownership of the property.

Mal Blodgett, Land Bank of Wolfeboro-Tuftsboro, abutter, stated simply want to ask the board to uphold ordinances as they stand, and they see no need for granting a special exception.

Mike Hobbs, 10 Filter Bed Rd, stated Goodhue is a great operation and is very much needed, but it's a huge traffic, dust, dirt and debris problem.

Anne Blodgett, Friend St, stated Friend St is a residential area, but has become a through way for construction trucks, and boats. No sidewalks, and a lot of walkers. A lot of noise pollution.

It is moved by Suzanne Ryan to close public comment. Audrey Cline seconded. All in favor.

Discussion on 8 criteria requirements.

1. Site suitability:

- Adequate usable space
- Adequate access
- Absence of environmental constraints

Ms. Ryan stated cannot argue there is adequate usable space. Can argue there is no adequate access.

Ms. Cline asked based on immediate access to the parcel, or access from one location to another.

Ms. Ryan replied access out of Filter Bed Rd, access egress. Access is a negative, they don't have frontage on Pine Hill Rd. Meet A, don't meet B, and no scientific data for C.

2. Immediate neighborhood impact:

Ms. Ryan stated can argue they don't have immediate neighborhood impact because they use lesser desirable neighborhood around their lot. However, concerning neighborhood in general, typical impact which extends beyond the proposed site. Excessive trip generation, no doubt from what was said tonight and the estimated number of trips. Noise or vibration, heard from the Taylor Community it is unbearable. Smoke, fumes, gas or odors – fumes though Friend St. Inappropriate hours of operations – was not discussed.

3. That there will be no undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off-street parking.

Ms. Ryan stated there is no off-street parking. Nuisance to access and pedestrian would be traffic on roads like Sewall Rd, Taylor Community.

4. Availability of public services & facilities:

- Sewer
- Water

- Stormwater Drainage
- Fire Protection
- Police Protection
- Streets
- Parks
- Schools

Ms. Ryan stated it is not applicable for sewer, water, do not know on stormwater drainage.

Mr. Persson stated there is a concern with fire protection. Quick figure with the number of boats, looking at 15,000 gallons of gas on site, will have oil on site. Questioned if foam generators will be on site, as is in the building by water. The building does have sprinklers outside. Noticed during the site visit there is a good clear cut around both sides of the building but looks like they just stopped in the back of the building.

Ms. Cline stated with not bringing the road up to code, and the fire department responding no matter what, also putting the fire trucks at risk.

5. Appropriateness of site

Ms. Cline stated there is an issue with traffic and parking, not leaving room for others.

Ms. Ryan stated commercial vehicles are going up and down.

6. Immediate neighborhood integrity: That the uses and established use patterns be weighted with recent change trends in the neighborhood.

Ms. Ryan stated the parcel across the road, has the potential for 160 housing project. If this goes through, would definitely have an impact.

7. Impact on property values

Ms. Ryan stated do have a letter of testimony stating it will not affected property values.

Ms. Cline stated will accept that.

8. The proposed use or structure is consistent with the spirit of the ordinance and the intent of the master plan.

Ms. Ryan stated the master plan does say that there was a subcommittee put together by the Planning Board that was to investigate the potential to make Filter Bed Rd a through street and it was decided against.

Ms. Cline stated the master plan does encourage a connection between Pine Hill Rd and Varney St. Would be down Filter Bed Rd or someplace similar.

Ms. Ryan stated for site suitability it would be an accumulative effect of adding 2,000 trips per season plus 300 already approved, would be devastating for those on Friends, Varney, Sewall, Libby and Mill.

It is moved by Suzanne Ryan to deny Goodhue & Hawkins LLC, 121 Filter Bed Rd, tax map 190-026, case #05-se-24, for approval for 9 boat storage units. Sabet Stroman seconded. Roll call vote: Jody Persson – yes, Sabet Stroman – yes, Sarah Silk – yes, Suzanne Ryan – yes, Audrey Cline – yes. Motion passed (5-0-0).

III. Unfinished Business

None

IV. New Business

None

V. Minutes of Previous Meetings: 03/21/2024

VI. Communications and Miscellaneous

None

VII. Adjournment

It was moved by Suzanne Ryan to adjourn the April 1, 2024, Zoning Board of Adjustment meeting. Sarah Silk seconded. All in favor. Motion passed (5-0-0).

There being no further business before the Board, the meeting was adjourned at 10:30 pm.

Respectfully Submitted,

Sierra Pawnell

Sierra Pawnell