



TOWN OF NEW LONDON, NEW HAMPSHIRE

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ZONING BOARD OF ADJUSTMENT (ZBA) MEETING MINUTES Tuesday, July 6, 2021 Whipple Town Hall, 6:30pm

MEMBERS PRESENT: Doug Lyon (Chair, voting) Michael Todd (Vice Chair, voting), Katharine Fischer (voting), Steve Root (Alt), Ann Bedard (voting), Heidi Lauridsen (Alt), Stan Bright (voting)

MEMBERS ABSENT: Lauren Chadwick, Frank Anzalone

OTHERS PRESENT: Adam Ricker, Zoning Administrator, Stuart Greer, Dale Dewispelaere

1. **Call to Order**– Chair Lyon called the meeting to order at 6:35pm.
2. **Public Hearing(s):**

Case #: #ZBA21-03 & #ZBA21-04
Owner/Applicant Otter Pond Protective Association
Applicant: Stuart Greer, Co-President OPPA
New Parcel ID 041-002-000-000-000
Address: Otterville Road (undeveloped land, Otterville Beach)
Zone(s): ARR (Agricultural Rural Residential)
Overlay Shore Land Overlay District

Summary:

- #ZBA21-03-Application for a Variance per Article II, Section 10(g) of the Zoning Ordinance to permit a free-standing sign of 17.93 square feet at the Otterville beach.
- #ZBA21-04 –Application for a variance per Article XVI, Section C (2) of the Zoning Ordinance to disturb the waterfront buffer with the installation of a free-standing sign in the Shore Land Overlay District.

Zoning Administrator Adam Ricker noted that this entire property falls within the town's right of way. If the variance is granted tonight, the association would need to go before the Board of Selectmen for final approval for placement of a sign in the right of way. The Public Works Director would be asked to weigh in on this as well.

Chair Lyon stated that an easement exists so Ausbon Sargent would be interested in this also. Chair Lyon spoke with Debbie Stanley of Ausbon Sargent and their land protective specialist has reviewed the application and has no issues with it. They are in favor of a sign to keep the area in better condition. There are no restrictions in the easement on the size of the sign. Sign regulations are set by the town.

Stuart Greer, co-president of the Otter Pond Protective Association (OPPA) and Dale Dewispelaere, a resident of Otterville Road and treasurer of OPPA attended the meeting. The beach on Otter Pond is unique in that there are no restrictions for access to this beach. Anyone can visit and use it day or night for boating, swimming and fishing. Otter Pond provides drinking water for a number of residents and provides more than 50% of Lake Sunapee's surface level layer water. Due to the unrestricted access there are growing

concerns about trash and other pollution. Trash continues to accumulate regularly, putting the water at risk. There is no public boat launch on the beach and there is no intention of having one.

OPPA requests a variance of article 2 Section 10, paragraph g to install one free standing sign of approximately 18 square feet in size on the beach. The unlit sign would be wood-framed and supported by wood posts, and is within the 12 foot height restriction. The sign would read "Show your respect and love of our water, land and wildlife by leaving no trace of your visit. This beach and surrounding property are owned by the Otter Pond Protective Association and conserved by the Ausbon Sargent Land Preservation Trust."

Mr. Greer noted they have looked at many options and decided to start with the sign. They don't want to restrict access or be heavy handed. It is the prior landowner's as well as OPPA's wish to preserve the aesthetics of the beach so they don't want to post multiple smaller signs. The goal is to change the behavior of people ignoring signs that are there. If the signs are too small, they won't see it or pay attention to it. Mr. Todd commented he thinks they will see limited results with signage.

A letter was sent in that opposed the sign due to the size and called it a "monstrosity". Steve Root agreed that it is a big sign and asked if they considered a smaller sign. Mr. Greer stated they want it to be durable and expect the sign to take some abuse so it needs to be sturdy. They would consider putting the posts behind the sign to reduce it a little.

Ann Bedard asked if they had tried anything else prior to this such as temporary signs that can be removed each day. Signage is a big issue in town and this sign is way too big for the use of that land. Mr. Greer doesn't feel any other options will have enough of an impact. Ms. Bedard also suggested having a presence during the day at the beach so people know they are being watched. Mr. Greer would like to have more volunteers but that will take time.

Mr. Greer reviewed the facts supporting this request:

1. **The variance will not be contrary to the public interest** – Mr. Greer stated the sign's purpose will affirm there is a beach while asking people to respect and maintain the cleanliness of the area. By identifying that it is owned by an entity and monitored by an entity, the hope is there will be better behaviors around cleanliness of the land and water. Michael Todd asked if the sign will alter the essential character of the neighborhood and Mr. Greer responded he doesn't see how it would.
2. **The spirit of the ordinance is observed** – posting the sign doesn't pertain too much to traffic and pedestrian safety but it does facilitate effective communication, community vitality and community character. They purposely chose a wooden sign to fit in with the area. The goal is to reduce pollution in the area.
3. **Substantial justice is done** – by not allowing the sign it will allow a continuation or worsening of the pollution on the beach. Last year it was a hot summer and the beach was overrun with people and trash and it hasn't subsided. They are trying to protect the ecosystem in the area and continue to allow access to the beach. Michael Todd asked if they were to deny this variance, would there be any gain to the general public? Mr. Greer stated the only gain would be they could continue to throw trash everywhere and that is not really a gain.
4. **The value of surrounding properties is not diminished** – The proposed sign is of reasonable size and location and its materials consistent with the surrounding rural area. It is smaller in size than other local beach and trail signs. Versus having multiple signs

within the 4 square foot regulation size placed at intervals along the beach, the aesthetic quality of which would be questionable, OPPA intends to place one sign. The material uses a wooden frame and posts, which OPPA would stain next year. The sign does not diminish the value of surrounding properties in that a primary purpose for the sign is to promote responsible actions by visitors to care for the area land and water helping to maintain the quality of each.

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

1. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of the property

The Zoning Ordinance recognizes the importance of signs to provide efficient and effective communication, supporting economic development, and informing the community of available goods, services and activities. Given the importance of the sign to the existence of clean water, the sign is consistent with this very purpose. There is no fair and substantial relationship between the general purposes of the Zoning Ordinance and restriction on the size of the sign in view of the particular and unique characteristics of the beach and surrounding area by supporting its care and conservation. The proposed sign is consistent with the area and located in such a way that there will be little to no visual impact on the surrounding area. The visibility of the sign due to its dimensions will prevent hazards to traffic.

2. The proposed use is reasonable

The unique conditions of the beach that distinguish it from other properties in the area are, as noted. The beach is open to all visitors and offers them pond access that they would not otherwise have. Unlike other beaches in the area, it is not access restricted by a trespassing prohibition, limited hours, and town of residence requirement or state management. It is open to all visitors.

The sign is reasonably sized for the surrounding area, allowing for readability at a distance, and is reasonable placed, being a distance from residential properties but viewable to beach traffic. The sign must be large enough to be visible from a distance in order to clearly indicate that the beach exists, is owned by a private party, allows access, and requests no adverse impacts on the land and water. The sign will not create any adverse visual impact or confusion. As noted, denying the variance will enable a continuing abuse of the area at the present rate, or worse.

Limiting the size of the sign to that of a less visible and readable level negatively impacts the beach's aesthetic, viable, natural and economic value of the surrounding area.

- **If the criteria of subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions that distinguish it from other properties in the area, the property cannot be used in strict conformance with the ordinance, and a variance is therefore necessary to allow a reasonable use of it.**

Unlike other area beaches, OPPA's beach is not staffed and does not impose limited use by the public. The sign enhances community character by mitigating the visual effects,

particularly that of littering and illegal dumping. To limit or eliminate pollution risk of the water without measures such as a sign, OPPA would have to remove public access, which is not desirable. Visitors may now enjoy access to this open land without restrictions, consistent with community vitality by informing the community of available services and activities. OPPA would like to see this continue.

Mr. Todd asked what physical characteristics of this property distinguishes it from all the others. Mr. Greer stated the other properties in the area are private but this is different because it allows public access.

Ann Bedard asked if they would consider reducing the size of the sign. Mr. Greer stated they would consider it but still need a noticeable sign. With the physical limitations of the beach they don't have a lot of options.

Mr. Todd noted that he looked at the 2018 Board of Directors and the 2020 Board of Directors and there was no one in common which indicates turnover. Mr. Greer explained some of the members retired and there has been a transition. They felt they needed a fresh start and diversity of representation.

IT WAS MOVED (Michael Todd) and SECONDED (Ann Bedard) to discuss. THE MOTION WAS APPROVED UNANIMOUSLY.

Chair Lyon summarized comments from Board members stating that they'd like to see a smaller sign. There is also concern that putting up a sign is not going to solve the problem. Chair Lyon also stated he feels that OPPA has given this a lot of thought and want to try this solution. It is a reasonable request and he would be inclined to support it.

Ann Bedard has an issue with the size of the sign as it is in a residential area. A big sign is not a good resolution for this and they should try smaller signs first to see if they are successful.

Mr. Todd explained if these variances are denied tonight they cannot come back a second time for this same request. Adam Ricker stated the applicants do have the ability to withdraw and propose a new application. Mr. Ricker stated another option would be to continue the hearing and the applicants could go back to the association to discuss other potential size options. Mr. Greer stated he would like to choose the option to continue. Ann Bedard asked them to provide a better visual picture of the sign they are proposing for the next meeting.

IT WAS MOVED (Doug Lyon) and SECONDED (Michael Todd) to continue this hearing to the August 3, 2021 meeting. THE MOTION WAS APPROVED UNANIMOUSLY.

3. Review of Minutes of April 6, 2021

IT WAS MOVED (Doug Lyon) and SECONDED (Steve Root) to approve the minutes of the April 6, 2021 meeting. THE MINUTES WERE APPROVED UNANIMOUSLY.

4. Motion to Adjourn

IT WAS MOVED (Steve Root) AND SECONDED (Ann Bedard) to adjourn. THE MOTION WAS APPROVED UNANIMOUSLY.

The meeting was adjourned at 8:08PM

Respectfully submitted,

Trina Dawson

Recording Secretary
Town of New London