

**City of Sanford
Zoning Board of Appeals**

The Sanford Zoning Board of Appeals scheduled a meeting on Wednesday, August 13, 2014 at the Sanford City Hall. The meeting was called to order by Jane Bowker at 7:00 P.M.

Members Present: Mark Patterson
Jane Bowker, Chairperson
Kimberly Stewart, Secretary
Kyle Landry
Paul Demers, Vice Chairperson

Members Absent with Notice: Naila Aslam-Khan

Representing Code Enforcement: Shirley S. Sheesley, Chief Code Enforcement Officer
Jamie Cole, Code Enforcement Officer

Appellants: Carolyn A. Parker

The ZBA meeting commenced with the Pledge of Allegiance.

Approval of Minutes

Jane asked if there were enough members present to vote on the minutes. Shirley Sheesley responded there were for the April 23, 2014 and June 25, 2014 sets, but not for the May 14, 2014.

Jane called for a motion on the April 23, 2014 minutes.

Mark made a motion to approve the minutes as written.

Paul seconded the motion.

A vote was taken and the motion passed 5-0.

Jane called for a motion on the June 25, 2014 minutes.

Paul made a motion to approve the minutes as written.

Kyle seconded the motion.

A vote was taken and the motion passed 5-0.

Old Business

There were no old business items to discuss.

New Business

1. Administrative appeal of Carolyn A. Parker, representing Cumberland Farms, Inc., 982 Main Street, Map K32, Lot 38, Sanford, ME 04073. This meeting is a continuation from the June 25, 2014 meeting.

Jane asked if any board members had a conflict of interest to present; no one did.

The Chairperson called upon the Code Enforcement Officer to give a brief statement as to what gave rise to the appeal and the basis for it.

Shirley stated the case stemmed from a sign permit application that was denied by the codes office for two reasons: 1) the request was for an alternating sign, this is not defined in our ordinance; 2) moving and flashing signs are prohibited in all areas of the city.

Jane said the Board needed to make a determination of standing, which the Board did find the applicant had standing to apply for an appeal.

Carolyn Parker said Cumberland Farms started a SmartPay program and one of the ways to incorporate this program is to install an alternator strip within the square footage of the LED price sign on their pylon signs and add a sign on the pump toppers. The lights can be set to change in a range from 8-second to 630-second intervals. Ms. Parker said she could show a video that will demonstrate the signs she is referring to. Since it is a public hearing, Paul made a note stating there was no one from the public present at the meeting.

Jane asked Ms. Parker about the Webster's Dictionary definition of a flashing sign she included in her letter. Jane went online and read the definition for flashing sign she found on Wikipedia. Jane wanted to know how long the messages stayed on versus off. Discussion followed.

Paul asked Ms. Parker if she would like the Board to review the two sign requests separately. Ms. Parker replied she would prefer the Board do that.

Jane asked Ms. Parker if she applied for an ordinance change through the Planning Board. Ms. Parker stated she had not.

Jane asked Shirley to give her presentation.

Shirley said alternating sign is not defined in our ordinance. The closest definition this request fits is moving or flashing signs. She read the definition from the ordinance and read the prohibited sign ordinance, where moving signs are addressed. Moving signs are not allowed in any part of the city, and the city does not issue permits for pump-topper signs. Shirley addressed the types of flashing signs that are

permitted, what she believed state law referred to in regard to allowed flashing time intervals, how the codes office has interpreted these types of signs in the past, and the ordinance provisions for these types of signs.

Shirley reminded the Board this was an administrative appeal and if they choose to allow the appellant to have these signs, she would have to change her review of these requests in the future; discussion followed.

Kyle confirmed pump-topper signs are not in question regarding alternating. Shirley said this is correct and does not see this as a problem as these signs do not require a permit.

Ms. Parker said she sent information on the signs being requested to the state and the State of Maine said no to the pylon alternating sign but yes to the pump-toppers.

Kim asked how often a moving and/or flashing sign can change; the answer is once per day.

It was decided that pump-topper signs were not a topic for discussion since they don't need a permit.

Paul made a motion that, due to the fact the City of Sanford ordinance does not appear to address pump-toppers and would treat them as exempt, the ZBA treat pump-toppers as exempt signs under the standards that they be consistent with the DOT (Department of Transportation) or Maine law with regard to fuel services

Kyle seconded the motion.

Jane asked if there was any discussion on Paul's motion.

Mark asked where the Board was being asked to review this appeal; discussion took place.

Paul asked Ms. Parker if the pylon sign could be modified to stack non-member and member price on one sign. Ms. Parker replied it could be.

Mark returned discussion to the motion on the floor and asked if the Board should consider pump-toppers.

Paul revised his motion to "pump toppers be exempt from this discussion as they appear to be exempt from our ordinance as long as they are consistent with DOT or Maine fuel service guidelines."

Kyle seconded the revised motion.

A vote was taken and the motion passed 4-1.

Mark made a motion to deny the appeal for the alternating sign because it is, as described in Section 280.84.C(2), a moving or flashing sign and it is clear that whether it flashes every 8 seconds or 15 seconds, it is a flashing sign and it is not allowed in our current ordinance.

Paul seconded the motion and added an amendment to Mark's motion: "and to affirm the denial of the permit by the codes enforcement officer."

Mark seconded the amended motion.

A vote was taken and the amended motion passed 5-0.

Jane asked if there was any discussion on the amended motion.

Paul said Shirley's denial is in two parts, the first part being the use of alternators not being addressed in the ordinance. He feels the term alternator should be overlooked by the CEO and the CEO should treat the applicant's request as a moving or flashing sign.

Mark agrees with Paul; however if an applicant had an alternating sign that alternated every hour, he wondered how distracting that would be. He thinks the Planning Board should consider a time interval that would make a sign be considered not alternating.

There was a 5-0 vote on the motion to deny the administrative appeal.

Mark made a motion to direct Shirley to ask the Planning Board to address alternating (electronic, alternating, flashing, or changeable) signs in their review of the sign ordinance, the number of changes per hour, etc. Discussion followed.

Paul seconded the motion.

Jane asked if there was any discussion on the motion; there was none.

Jamie, Code Enforcement Officer, reminded the ZBA that ordinance changes require a public hearing. The ZBA asked the codes office to inform them when the public hearing would be held so they could attend.

A vote was taken, and the motion passed 5-0.

Adjourn

A motion was made by Mark to adjourn. The motion was seconded by Paul and the Board adjourned at 8:10 P.M.

Dated August 13, 2014

Carolyn A. Parker