



P L A N N I N G & Z O N I N G
D E P A R T M E N T

**ZONING BOARD OF ADJUSTMENT
PUBLIC HEARING AGENDA
Wednesday, May 15, 2019 – 6:00PM**

Lincoln Town Hall, 148 Main Street, Lincoln NH

- I. CALL TO ORDER** by the Chairman of Zoning Board of Adjustment; announcement of excused absences, if any, and seating of alternates(s), if necessary.
- II. CONSIDERATION** of meeting minutes from:
- November 7, 2018 (Present: Chair Jonathan Ham, Vice Chair Don Landry, Delia Sullivan, Jack Daly, and Alternate Myles Moran)
- III. NEW BUSINESS**
- A. Elect a Chair and a Vice Chair of the ZBA**
- B. 6:00 PM. Special Exception for Sign – Extension of 5 Year Special Exemption Granted in 2014 for Off Premise Sign as part of Integrated Sign Plan:**

Tourist Attraction Property:

34 Papermill Drive (Tax Map 112, Lot 017) (General Use District)
Jean’s Playhouse

Owner of Tourist Attraction Property:

North Country Center for the Arts
34 Papermill Drive
PO Box 1060
Lincoln, NH 03251-1060

Appellant:

Lyn Osborne Winter, Manager Director for
“North Country Center for the Arts/Jean’s Playhouse”
PO Box 1060
Lincoln, NH 03251-1060

Off Premise Sign Property:

Main Street #D LO (Map 118, Lot 002) (Village Center District)

Owner of Sign Property:

TFG Lincoln Properties, LLC
c/o the Finch Group
6111 Broken Sound Parkway NW #150
Boca Raton, FL 33487-2774

Under the provisions of the Lincoln Land Use Plan, Article VIII, Section A, Paragraph 2, that Appellant Lyn Osborne Winter, Manager Director for the tourist attraction North Country Center for the Arts/Jean’s Playhouse” located at 34 Papermill Drive (Tax Map 112, Lot 017), requests approval of an extension for a Special Exception requests an extension for up to five (5) years for a Conditional Special Exception to have an

off-premise sign on property in the Village Center (VC) District owned by TFG Lincoln Properties, LLC (Map 118, Lot 002) as part of an approved Integrated Sign Plan for a tourist attraction not located on the main road so part of the purpose of the sign is to point travelers to the attraction when the attraction cannot be seen from the main road under Land Use Plan Ordinance Article VIII, Section A, Paragraph 2.

On January 28, 2014, the “Request for a Special Exception” was approved with conditions: “Within five (5) years (January 28, 2019) the applicant shall come back to the ZBA with an application for a more permanent sign or show good cause why Jean’s Playhouse needs an extension to build a more permanent sign. If Jean’s Playhouse receives a grant or funds to fix up the sign before the five years is up, Jeans Playhouse may come in and ask the ZBA to remove that condition.” No funds or grants to support the sign have been received. The Appellant requests an extension of the Special Exception to continue the use of the off-premise sign.

ACTION: Acceptance of the application as administratively complete by the ZBA.

ACTION: ZBA may conduct a public hearing, or schedule a public hearing at some future date established during this meeting.

ACTION: Approval of request for extension of Special Exception, approval with conditions, or disapproval by the ZBA.

IV. CONTINUING AND OTHER BUSINESS (Staff and Zoning Board Member/Alternates).

- A. 6:00 PM. Status Update: Michael and Sonya Hamori** – Var 2018-07 M130 L120 Grant - Variance – build retaining wall within side setback

VARIANCE concerning Article VI District and District Regulations, Section B District Regulations, Paragraph 4 (Dimensional Chart) of the zoning ordinance known as the Land Use Plan Ordinance (LUPO) to build a retaining wall that encroaches into the 25-foot side setback areas.

Appellants & Property Owners:

Michael and Sonya Hamori
304 Salem Street
Andover, MA 01810

Property:

11 Beechnut Drive (Tax Map 126, Lot 020) – Mountain Residential (MR) District

Appellants requested a variance concerning Article VI (District and District Regulations), Section B (District Regulations), Paragraph 2 (Land Use Schedule), Paragraph 4 (Dimensional Chart) of the Land Use Plan Ordinance (LUPO). The home and original driveway were built in 1978. The lot is steep and narrow.

Hamoris’ driveway runs along the northern boundary of the lot within the 25’ side setback area. Appellant proposes to substantially expand and extend a retaining wall substantially greater than four feet (4’) in height that will extend almost all of the way to the back of the lot. The purpose of the extended retaining wall is to support the driveway and the house and to mitigate run off from the Hamori lot onto the neighbor’s lot.

Hamoris already built most of the proposed retaining wall without a Land Use Authorization Permit. The home is located in the “Beechnut I” development, however the Beechnut I Homeowners Association is not active. The home is located at 11 Beechnut Drive (Map 130, Lot 120) in the Mountain Residential (MR) District where the front, side and rear minimum setbacks are 25 feet. Almost the entire retaining wall as proposed will be located within the 25-foot front setback area.

The proposed retaining wall needs a **variance** as specified in the Land Use Plan Ordinance, Article VI Article VI District and District Regulations, Section B District Regulations, Paragraph 4 (Dimensional Chart) to encroach into the twenty-five foot (25') front setback area.

During the Public Hearing held on November 7, 2018, upon reading through the five criteria, the Board found everything was addressed satisfactorily except Criteria 2.

- **Criteria 2 says: If the variance were granted, the spirit of the ordinance would be observed. The variance will in no way violate the spirit of the ordinance.**

The Board agreed that the Hamoris need a completed survey for this lot. If it turns out that the retaining wall is located entirely on Hamori's property, they can proceed as planned. If the retaining wall is not located entirely on Hamori's property, Hamori will need to secure an easement from Jim Burroughs.

Review email letter from Hamori updating the ZBA on the status of survey.

V. OTHER BUSINESS – ZBA members/alternates, Zoning Board Staff

A. 6:00 PM. Membership on both ZBA and Planning Board is Problematic.

Board of Selectmen asked Zoning Board of Adjustment and the Planning Board to consider the issue that a member of the Planning Board is presently sitting on two (2) boards: as a Planning Board Alternate and a Zoning Board member. Both Boards must be made fully aware that although both boards are now fully elected, if the Boards put a member on both boards that situation creates a "potential" major conflict of interest in the event one of the Boards must "jury" for the other. The BOS understands this can result in costly legal litigation and although it is "legal" it is not recommended. This has been made an agenda item as soon as possible so that both Boards are aware.

Also, the BOS want the Administrative Assistant to post the vacancies after the ZBA establishes who is sitting where and what actual seats need to be filled before making a decision about who will fill those seats.

VI. PUBLIC PARTICIPATION AND OTHER BUSINESS: Public comment and opinion are welcome during this open session. However, comments and opinions related to development projects currently being reviewed by the ZBA will be heard only during a scheduled public hearing when all interested parties have the opportunity to participate.

VII. ADJOURNMENT