

**TOWN OF GORHAM
BOARD OF APPEALS
MEETING MINUTES
APRIL 20, 2017**

The Gorham Zoning Board of Appeals held their monthly meeting on April 20, 2017 at 6:30 pm in the Council Chambers at the Gorham Municipal Center.

Present; Town Attorney, Natalie Burns, Chairperson Mark Curtis, Board Members; Thomas Hughes, Jan Labrecque, Alton Shurtleff, and David Toye, Deputy Town Clerk, Paula Nystrom. Absent were Charles Haws and Christine Hume

Also present petitioner, Pastor Brian Undlin from Life Church. There were no other public present.

Moved by Thomas Hughes, seconded by Alton Shurtleff and VOTED to accept the March 1, 2017 meeting minutes as printed and distributed. VOTED 5 yeas

Appeal #17-05 Pastor Brian Undlin from Life Church is asking for an Administrative Appeal of the Code Enforcement Officer's decision to deny a sign permit application to replace a sign at 8 Elkins Road, Gorham (Map 27 Lot 15.003).

Pastor Brian spoke on the church's behalf giving a short history of the sign and how it has come to the current status. The original sign was installed in 2007 in a SR Zone indicating it was a nonconforming sign but permitted at the time. Over the years it has remained unchanged until new panels were installed both front and back with a new logo for the church. Thinking the Church was maintaining the sign as it weathered they had no idea they were in violation when they changed the panels out. Pastor Undlin agreed that they could change the panels back to the original sign to be in compliance but was hoping that the Board of Appeals would allow them to keep the current sign and grant them a permit.

Code Enforcement Officer Freeman Abbott spoke giving the background of how he came to know that the sign was changed and the various conversations, emails and meetings Town Planner Thomas Poirier, Zoning Administrator David Galbraith, Code Enforcement Officer Freeman Abbott, Pastor Undlin and Pam Nicely from Life Church telling them about the Sign Code for the Town and how the sign was not in compliance, giving them options for a change that would be acceptable and if not accepted then must be removed.

Public Hearing: Chairman Curtis opened up the floor for public comment. No one commented. Public hearing was closed.

Natalie Burns, Town Attorney spoke regarding the code reading each section that pertains to Life Church giving the Board of Appeals the background for all signs in the town.

Discussion: Chairman Curtis asked for comments/discussion from the Board in which there were several mostly for clarification to what the code specifically says.

David Toye made a motion that per this discussion to deny Life Church their appeal for a permit application for replacement to a new sign in which the old sign on site was permitted and considered a nonconforming sign that once a change of the face of the sign is done this sign would need to be brought into compliance of today's code.

Seconded by Thomas Hughes and VOTED 4 yeas, 1 nay (Labrecque) to deny.

Moved by Thomas Hughes, seconded by David Toye and VOTED to take a short recess to let the lawyer come up with Finding of Facts and Conclusions. 5 yeas

**TOWN OF GORHAM ZONING BOARD OF APPEALS
FINDINGS OF FACT AND CONCLUSIONS
ADMINISTRATIVE APPEAL-8 ELKINS ROAD (TAX MAP 27, LOT 15.003)
APPLICANT: LIFE CHURCH**

Findings:

1. Life Church is the owner of property located at 8 Elkins Road (Tax Map 27, Lot 15.003).
2. The property is located in the Suburban Residential (SR) zoning district.
3. On August 7, 2007, Life Church applied for a sign permit to replace an existing sign on the property. The proposed sign was to be 8 feet by 4 feet, with an 8 foot by 40 inch reader board, and was to be 2-sided, with an overall height of 12 feet. The area of the sign was 32 square feet and the area of the reader board was 28 square feet. The sign was proposed to be illuminated. The Code Enforcement Officer approved the application on September 7, 2007 and Life Church installed the sign as approved.
4. The Church installed new faces on the sign in December of 2016, thinking that it could replace the sign faces as maintenance.
5. In December of 2016, the Code Enforcement Officer notified a representative of the Church, Mrs. Nicely, that the changed sign was considered to be a new sign under the Land Use and Development Code and that the new sign did not comply with the applicable zoning requirements.
6. On February 3, 2017, the Church submitted an application for a sign permit for the changed sign. The sign and reader board sign were to have the same overall height and dimensions as the previous sign and the sign was to be internally illuminated.
7. On February 3, 2017, the Code Enforcement Officer and the Town Planner reviewed and denied the sign application. They determined that the replacement sign did not meet the requirements of the current sign ordinance due to its size and internal illumination.
8. On March 3, 2017, Life Church filed an appeal of the Town's decision, stating that the only change that had been made to the sign was to the faces containing the logo. Brian Undlin, the Pastor of the Church provided an estimate from a sign company that a conforming sign would cost approximately \$3800.

Conclusions:

- a. The current sign regulations of the SR district are set forth in Sec. 2-3 of the Land Use and Development Code. The SR District falls within the classification of "Residential Environment," as set forth in Sec. 2-3.G. A new sign in the Residential Environment is not allowed to be internally illuminated, but it may be externally illuminated (Sec. 2-3.E.4). A ground-mounted sign for a non-residential property is allowed to be up to 24 square feet in total area and up to 8 feet in height. (Sec. 2-3.G.4.a.1). The Code Enforcement Officer has determined that the Church may have a 48-square foot sign as a multi-occupant non-residential property.
- b. Sec. 2-3.K regulates nonconforming signs. It allows the continued use and repair of nonconforming signs, but prohibits any alterations of the signs (Sec. 2.3.K.2). Sec. 2.3.K.3 allows for the replacement of a nonconforming sign with a less nonconforming sign, but this provision requires Planning Board review and

approval subject to certain conditions. No such review occurred in this case and an approval would not be possible since the current sign is not less nonconforming than the prior sign and is not legally nonconforming because it is a replacement sign. In addition, the provision would not allow a replacement sign to be internally illuminated.

Based upon the application materials, testimony and evidence presented, the Board hereby concludes that the current sign does not meet the requirements of the Ordinance and that the changes to the sign are subject to the provisions of Sec. 2-3.K.2 concerning the discontinuance and replacement of nonconforming signs.

The Board therefore denies the appeal by Life Church and upholds the decision of the Code Enforcement Officer.

Motion to adjourn.

Moved by Alton Shurtleff, seconded by David Teye. VOTED to Adjourn. 5 yeas

Time of adjournment 7:35 pm.

A TRUE RECORD OF MEETING

Attest:

Paula Nystrom, Deputy Town Clerk