

Seacoast Exhaust & Brake, LLC  
8 Milton Road  
Rochester, NH 03868

March 12, 2015

Rochester Zoning Board of Adjustment  
31 Wakefield Street  
Rochester, NH 03868

Case No 2015-4  
Request for rehearing under RSA 677:2

In the Notice of Decision on the above listed case heard and decided by the Rochester Zoning Board of Adjustment (Board) on February 11, 2015 with notice dated February 12, 2015, no Findings of Fact were listed to disclose the basis of the decision. Lacking a written Finding, or Findings, Seacoast Exhaust & Brake, LLC, by its listed member Bruce E Hodsdon (Appellant), is forced to surmise the basis for the Board's determination from minutes, observations, participation and video.

1. Absent a definition within the definitions section of the Rochester Zoning Ordinance, the Board determined that signs within the City of Rochester, if not permanently affixed or attached, were by default "Portable" signs. The Board was in error in that broad determination, ignoring factors such as size and weight in a signs "Portability". Under City of Rochester Zoning section 42.2 (a)

*Ordinary Meanings: Words, terms and phrases that are not defined in Section 42.2 Definitions and Terminology shall have their ordinary accepted meanings or those that the context may clearly imply.*

The Board ignored presented testimony as to the definition of portable: "easy to carry or move around" as provided by *Merriam-Webster Dictionary*

and “carried or moved with ease”, as provided by *The Free Dictionary*. Additionally the Board ignored other types of non-permanent signs listed as “Other Movable” and “Temporary Signs” without definition. As “Portable Signs” are only allowed within portions of the DC District, all other “Portable” movable and temporary signs are prohibited within the City.

2. Under 42.29 (g) 5, “*existing signs which are not in compliance with this article are not considered “grandfathered” under this ordinance.*” The existing sign, which has been in place for at least since 1992, far predated the adoption of the Portable sign Ordinance in 2007. Under the State of New Hampshire Constitution Article 23: ***Retrospective Laws Prohibited***. *Retrospective laws are highly injurious, oppressive, and unjust. No such laws, therefore should be made for the decision of civil causes, or the punishment of offenses.* The forced removal of the existing movable sign, is prohibited under the NH Constitution and represents a taking of both the sign value and business benefit for onsite advertising.
3. It was mentioned by Board members during the Board’s deliberations that allowing the Appellant’s existing sign to remain would open up a flood of additional requests. It is not, in my opinion, the Boards responsibility to speculate on what may or may not happen in the future. Appellant’s appeal should stand or fall on its own merit.
4. Article 42.29 (g) 5 also states that “If any notification of noncompliance is given from the Director of Building, Zoning & Licensing Services these signs or conditions must be brought into compliance within 30 days from that notification.” This section is clear that it is the Director, currently Jim Grant, who is responsible for notifications.
5. Under RSA 676:6 Effect of Appeal to Board. Code enforcement officer Sheldon Perkins did violate this RSA by filing a court complaint on Jan 15, 2015 contrary to the statute which states “An appeal of any order or other enforcement action shall stay all proceedings under the action appealed from unless the officer from whom the appeal is taken certifies to the board of adjustment, after notice of appeal shall have been filed with such officer, that, by reason of facts stated in the certificate, a stay would , in the officers opinion, cause imminent peril to life, safety, property, or the environment.” The appeal to the Board was filed by Appellant on Jan 12, 2015.
6. Conflict of Interest. During the Board meeting on February 11, 2015, Director Grant was seated with the Board, next to the Chair. He was observed and recorded advising and directing Board members as the hearing and discussions

progressed. Mr. Grant is also the supervisor of compliance officer Sheldon Perkins, who had filed the complaint for which the board was hearing the appeal. For Mr. Grant to participate with the Board in this manner represent an obvious conflict of interest.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Bruce E. Hodsdon", written in a cursive style.

Bruce E. Hodsdon