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**Town of Norton
Zoning Board of Appeals
Minutes of Meeting Held on October 19, 2022**

The October 19, 2022 meeting of the Zoning Board of Appeals was held in person at the Norton Media Center and remotely via the ZOOM platform, provided for interested parties and members of the public as noticed.

The meeting was called to order at 7:02 p.m. by Tom Noel, Chair. Members participating were Mr. Lukasz Wasiak and Mr. James Tenore. Also, in attendance is Zoning Board Secretary, Bryan Carmichael and Building Commissioner, Nicholas Iafrate.

The meeting was recorded and made available to the public on the Norton Media Center YouTube page.

7:00 PM

Public Hearing – Variance

ZBA File No. 16529

Property Address: 60 West Main Street

Applicant/Owner: Cumberland Farms

Mr. Noel reads the application is for a wall sign that exceeds the maximum sign coverage space. Mr. Tom Reidy, the applicant's attorney is present to speak on this matter. Mr. Noel states that this is a variance for a window sign for Ria's Pizzeria on one of the outer walls. The bylaw has a limit on the square footage that can be covered with signage or a percentage formula that would place the storefront above the limits.

Mr. Noel asks if Cumberland Farms had exceeded the amount of sign space when they last appeared in May 2019. Mr. Reidy states that it was for the canopy sign. Mr. Reidy states it was for canopy signs and two wall signs and a variance for the height and square footage of the freestanding sign. Mr. Reidy states the Planning Board process had gone back and forth and ultimately got approval and are close to completing construction. Mr. Reidy explains that the company has rebranded the inside of the store to include Ria's Pizzeria and this will be one of the first Cumberland Farms to do so. Mr. Noel asks if it is Cumberland Farm brand pizza. Mr. Reidy states it is and will be in all Cumberland Farms moving forward and from his understanding is more than just a pizza oven. Mr. Reidy states that it will be on the first floor and the sign itself will be 33.79 square feet. Mr. Noel states that the sign itself is not intrusive just that it goes over the square footage that is allowed. Mr. Reidy states that they would have gone

over 72 square feet if this sign is approved along with the already existing signage that will be up on the Cumberland Farms' storefront which is the smaller of the two options of an either 15% of the store front or 72 square feet.

Mr. Noel states that the decision comes down to whether or not this fits the area. Mr. Noel asks if Ria's Pizzeria is separate from Cumberland Farms. Mr. Reidy states that Ria's is not a separate place as the bylaw language states for each occupancy. Mr. Reidy states that the Pizzeria is also a part of Cumberland Farms.

Mr. Noel states that in reading the past decision it was determined that the Zoning Board had allowed the increase of signage over the bylaw with the gas station sign and the canopy signs. Mr. Noel that is the only issue he has with granting this variance is that such a granting was already done. Mr. Noel states that it doesn't offend the bylaw or the look of the area. Mr. Noel asks Mr. Carmichael if it is in the Village Center Core zone. Mr. Carmichael states it is in the Village Center Core zone. Mr. Wasiak states that he doesn't see it being more impactful than what is already there. Mr. Noel asks if the sign on the building is lighted. Mr. Reidy states it is lit from the back. Mr. Noel asks if there will be further light stands. Mr. Reidy states there will not be. Mr. Tenore asks if there is anything on the side of the building facing the street. Mr. Reidy states that there isn't anything facing that side and all they'll see is the elevation. Mr. Wasiak states the building faces the street so it makes sense to him as to why it is being done.

Mr. Tenore motions to close the public hearing and is seconded by Mr. Wasiak. Roll Call; Mr. Tenore Yes, Mr. Wasiak Yes, and Mr. Noel Yes.

Mr. Noel states that it seems to be in line with other establishments in the area. Mr. Noel states that it is an attractive building and it compliments the center of town and doesn't think this will change the area any. Mr. Tenore asks if they will have to come back. Mr. Noel states that it is based on the square footage of the sign and is sure Mr. Reidy had done his research for the project.

Mr. Tenore motions to grant the variance and to include the plan of record to the decision to grant the variance given the conditions of the property on this property that is not affecting the other properties in the area that variance relief is appropriate without offending the purpose of the bylaws and is seconded by Mr. Wasiak. Roll Call; Mr. Tenore Yes, Mr. Wasiak Yes, and Mr. Noel Yes.

7:05 PM

Public Hearing – Variance

ZBA File No. 16473

Property Address: 361R Old Colony Road

Applicant/Owner: Jason & Melissa Masse

Mr. Edward Valenzuela of the Valenzuela Law Group and Mr. Jason Masse and Mrs. Melissa Masse are present to speak on the application.

Mr. Noel reads that the property is 361R which is the rear of the property that has a connecting driveway. Mr. Valenzuela states that the property is 361Rear as it is set back off the street. The lot is a little over 3 acres and is 153,331 square feet with the proposed building being 18000 square feet. Under the bylaws there is only need for one variance and that is for frontage. The current frontage is for 33.7 feet. Other than that, one issue the project meets all the zoning requirements. Mr. Valenzuela states that the property is in the Commercial zone and the owner wants to move his sign company to Norton from Plainville. The building will be on slab which will be 80 by 80 square feet with a total of 6400 square feet. There will be office space and shop area within the building. They meet with customers and make the signs in the building and will go out to install the signs. The lot is heavily wooded and the driveway so small that it is easy to miss the house already on the property. Mr. Valenzuela hands out pictures to the Zoning Board of the property. If looking at the right of the house it is a heavily wooded area and dense which is where the building will go. Mr. Valenzuela points out that the owner has a single-family house already on the property. Mr. Valenzuela states that the other building will be split off from the house and have a one way around the building so there will be no back-ups and will just go in a continuous motion. The only trees being removed are needed to put in the parking area which will still be dense. The use is permitted by the bylaws under Section 175-4.4 principle use in the commercial zone and this type of shop is also permitted by the bylaw so it is not an issue. The building will have a roof water recharge area behind the building as shown on the plan, septic, and parking for nine vehicles which may not be required. Mr. Valenzuela states that the hardship is a little enforcement involves substantial hardship financial or otherwise and the variance can be granted without derogating for the purpose of the bylaw. The ZBA have the authority to grant the variance, the shape of the lot pertains to the land and the financial hardship to the applicant as the area is very small but fits on the three-acre lot but there isn't much frontage but everything else works. The applicants had reached out to the neighbors to speak with them. Ms. Mary Jo the neighbor to the right has had communication with the applicant and has no problem with the construction. There was outreach to the neighbor to the left but they haven't heard anything from them.

Mr. Noel asks where the proposed building is going, is there a structure there currently. Mr. Valenzuela states that there is nothing there currently. Mr. Valenzuela shows the Zoning Board pictures of what the lot looks like currently and shows where it will be in relation to the single-family home and the woods. Mr. Noel asks for how long Mr. Masse has lived there. Mr. Masse states he has lived there for almost five years. The back of the property shows the zone change from commercial to residential. Mr. Noel asks Mr. Iafrate if he has reviewed the plan for parking spaces. Mr. Iafrate states that looking at the plan currently needs to have 1 parking spot every 200 feet. There are 13 proposed parking spaces which may need to have a variance for the parking spaces as well. Mr. Valenzuela states that they can add more parking spaces. Mr. Iafrate

states they would need 32 spaces. Mr. Noel states that a certain percentage will be office and the other will be shop space which are two different calculations. Mr. Iafrate states he and the applicant had spoken about the parking before and felt it isn't really retail as it isn't a storefront. Mr. Masse adds it is giving vehicles lettering for things like trucks, vans, and police cars. Mr. Masse states that his business is currently 85% on the road installing in high rises, walls, and windows. Mr. Noel asks what the business will be like, if it will consist of just Mr. Masse or if there will be 10 people working there all at once. Mr. Masse counting himself there will be four people at the office working full time. Mr. Noel asks if they will be working in the office or will they be crafting the signs on-site. Mr. Masse states that one is always in the office, Mr. Masse will be helping out with everything, and two others will be out installing signs. Mr. Noel asks to confirm that there will be up to four employees on the site. Mr. Masse states there will be four at most. Mr. Valenzuela states that the engineer didn't mention the bylaw requirement and thought the amount of parking spaces were sufficient because this is not typical retail where people are coming and going and the public will only come if they call ahead and ask to come in to get an idea of what the product is. Mr. Masse adds that he, his wife, and son can go park at the house and walk to the to the proposed building. Mr. Noel asks how much of the building is retail. Mr. Masse states that it does happen and it would have to be scheduled for example the current week is three out of five business days are going to be down in Leominster in a brand-new building. Mr. Noel states that if someone called for an appointment on Thursday at 2pm then it would be someone coming in but there will be no stop in traffic. Mr. Valenzuela states that when he went for his own sign Mr. Masse came to him and talked with him about on-site rather than in the shop. Mr. Noel asks if Mr. Masse considers a shop a craftsman type facility. Mr. Noel then asks what Mr. Masse will be doing on site. Mr. Masse states he will be using vinyl machine cutters and then printers for vinyl so they could fully wrap a graphic around a van on site and the other 85% will be on the road. Mr. Noel asks if there will be auto or truck detail painting. Mr. Masse states that there will not be detail painting and states that the only painting happening is a pinstripe on a car. Mr. Noel asks if everything is plastered on. Mr. Masse explains that the pinstripe he does with a brush but the other stuff is vinyl which can be colored or reflective. Mr. Iafrate explains that it is basically a vinyl sticker that is put on.

Mr. Tenore asks where the current shop is located. Mr. Masse states it is in Plainville and has been on the site for 22 years. Mr. Tenore asks if he is growing and wants another building. Mr. Masse states no he likes Norton and the area around where his Plainville office is being developed so he wishes to move his operation out. Mr. Valenzuela states that with Covid Mr. Masse's business had taken a hit and hoping to improve the business this way. Mr. Noel asks if there are company vehicles. Mr. Masse states that there are. Mr. Noel asks how many are there. Mr. Masse states that they have a vent shop van, a small bucket truck, and personal pickups. Mr. Noel asks if they would be at the parking location. Mr. Masse states that two trucks would be there the van and bucket truck but the others don't have to be on the parking lot. Mr. Noel states the one concerning feature is the 33 feet open to the road. Mr. Tenore states he struggles with that as the frontage minimum is 120 feet and will be 33 feet. Mr. Noel states that 33 feet is existing. Mr. Iafrate states it was already approved for the house and the vehicles will still be

coming in and out. Mr. Tenore states that he doesn't think the entrance is limited but the driveway is hard enough to get into already with emergency vehicles but the width of the driveway is fine. Mr. Noel asks if there will be a sign at the road. Mr. Masse states it is on the proposed drawings. Mr. Valenzuela states that the sign will comply with the zoning bylaws. Mr. Noel asks if both neighbors are residential buildings. Mr. Masse confirms that they are residential. Mr. Iafrate states that another thing to be mindful of is the size of the building and if this will be subject to a site plan review from the Planning Board. Mr. Noel asks what triggers a site plan. Mr. Iafrate states 2500 square feet or more floor space and then 10 or more parking spaces which was discussed already with the applicant. Mr. Masse states he anticipates taking this application to the Planning Board. Mr. Iafrate states he directed him to go to the Zoning Board first to grant the variance before coming for the site plan.

Mr. Andy Shepard and Joyce Shepard of 28 North Worcester Street. Mr. Shepard asks where the line is from Commercial to Residential and asks to confirm that the residential zone is not being impacted at all. Mr. Noel shows that the corner area is the part that is in the residential zone. Mr. Shepard asks if there will be any construction done on the residential side. Mr. Masse states that there will not be any construction there. Mr. Valenzuela states that there is 919 feet from the building to the property line. Mr. Shepard asks how will waste vehicles come up to the building or at the end of the driveway. Mr. Masse states that the trash comes up to his house to collect and just turn around and go out. Mr. Shepard asks what type of trash goes in. Mr. Masse states it will be paper, vinyl, and cardboard no hazardous waste. Mr. Shepard asks if the Fire Department will have to look at their fire system. Mr. Noel states that the Fire Department will get involved eventually to confirm that the construction would be up to fire code. Mr. Iafrate states that a sprinkler system would be triggered if the building was over 7500 square feet but the Fire Department will still do a review of the building once architectural plans are submitted. Mr. Masse states that there are security systems on the house that go directly to the fire department and the proposed shop would have the same type of security system.

Mr. Noel asks about the outdoor lighting on the building and if it is at a minimum. Mr. Masse states that he will put it on a timer as he has his operation during the day so anything on the building would be angled down over the doorway to avoid bothering the neighbors. Mr. Valenzuela states that a lighting plan would be required for the Planning Board site plan and that the lights are to stay on the property.

Mr. Noel asks how far the rear setback is. Mr. Valenzuela states that the property is 119 feet from their house. Mr. Shepard asks if Mr. Masse will help clean the junk that is in the wooded area by the border of their properties. Mr. Wasiak states that there is a bylaw for a buffer from commercial to residential properties for twenty feet. Mr. Valenzuela states that he believes that would be a Planning Board concern and adds that the zone changes on Mr. Masse's property and that the commercial part of the property is not bordering any of the neighboring residential properties. Mr. Noel states he understands the logic but comments that the building the parcel is on the building would be bordering a residential zone even if that side of the parcel is residential.

Mr. Valenzuela states that he understands if the Zoning Board want to have Mr. Masse put up a vegetated buffer.

Mr. Wasiak finds 175-6.5 Commercial District Buffers and states the buffer must be fifty feet wide. Mr. Wasiak states while this won't affect the present use it could affect the future use of the property. Mr. Wasiak explains that the buffer goes through the lot as it is both Residential 40 and Commercial and states the buffer should be the buildings and the zone split not the property line. Mr. Valenzuela states that there is a 119 feet distance from the building to the zone line. Mr. Noel states that the 119 feet is for the property line. Mr. Wasiak states that a commercial building regardless of zone still needs 20 feet distance from a residential building. Mr. Valenzuela states he agrees with the interpretation of the bylaw. Mr. Valenzuela states he will work with the Planning Board and the abutters to have as much buffer as possible as there is already a nice buffer there currently and not sure if the neighbors would want to have trees cut to have a vegetated buffer. Mr. Noel asks if they would have to mention that the driveway is not a part of the 20-foot buffer and it would only apply to the structure. Mr. Iafrate state they are both from the structure. Mr. Noel asks if they are okay there. Mr. Valenzuela suggests that if any of the parking or asphalt is going to be in the buffer zone than it can be moved to satisfy the bylaw.

Mr. Shepard asks if the septic system will be underground. Mr. Noel states that the septic tank is a Board of Health concern and they have their own rules as to the distance a septic tank can be to a property. Mr. Iafrate states that the Board of Health will also review this application.

Ms. Ashley McHugh of 357 Old Colony Road asks if the zoning buffer would just need a fence if the twenty feet cannot be met. Mr. Wasiak states that the it is up to the applicant but it helps the Board know what is being proposed but not in the position to decide what they do for the buffer.

Mr. Noel reads that 20 feet shall be reserved and screening will be adequate for the situation and the buffer must be at least four feet high. Mr. Noel states that the driveway looks to fall into the buffer zone. Mr. Wasiak states that between the property line and the driveway there probably is enough space to put in natural screening. Mr. Noel states that he would want to add this to the decision.

Mr. Masse states he would like to work with the neighbors to make everyone happy.

Mr. Shepard asks where will Mr. Masse's runoff go. Mr. Iafrate states that stormwater runoff is regulated by the Conservation Commissioner. Mr. Noel adds that he bylaw usually doesn't allow for construction that will increase runoff onto residential parcels.

Mr. Noel asks if there is enough information for the Zoning Board to file a decision. Mr. Wasiak states that it fits the size requirements and the setback requirements. Mr. Noel states that this is a

residential house in a commercial zone with a commercial use being added to it. Mr. Noel states that he believes the property will also need a finding. Mr. Valenzuela states he isn't extending the non-conforming use of the residential structure. Mr. Noel states that they are adding a use to the property.

Mr. Tenore motions to close the public hearing and is seconded by Mr. Wasiak. Roll Call; Mr. Tenore Yes, Mr. Wasiak Yes, and Mr. Noel Yes.

Mr. Lafrate is fine with the motions and recommends that the Board puts what zoning bylaw sections they are in the decision.

Mr. Tenore motions to grant variance relief for frontage as shown on the plan of record for 33.7 feet which is pre-existing subject under compliance 175-6.5 for a commercial district buffer subject to that being met including the referenced 50-foot and 20-foot buffer sections with adequate screening and is seconded by Mr. Wasiak. Roll Call Mr. Tenore Yes, Mr. Wasiak Yes, and Mr. Noel Yes.

Mr. Tenore motions to make a finding under 175 1.5e that this property's alteration, that is will not be more substantially more detrimental than what is already there and is seconded by Mr. Wasiak. Roll Call; Mr. Tenore Yes, Mr. Wasiak Yes, and Mr. Noel Yes.

General Business

Future Zoning Board meetings are November 16th and December 14th.

Adjournment

Motion to adjourn at 8:11 by Mr. Tenore and seconded by Mr. Wasiak. The Zoning Board of Appeals all vote unanimously to end the meeting.

Minutes contemporaneously typed by: Bryan Carmichael, Administrative Secretary for the Planning and Zoning Board of Appeals.

Edited and Respectfully Submitted,



Bryan Carmichael
Administrative Secretary, Norton Zoning Board of Appeals

Approved by Committee on: June 21, 2023



Thomas R. Noel, Chair