



## **Town of Moultonborough Zoning Board of Adjustment**

### **Notice of Decision**

### **Request for Variance**

**Champ II, LLC: Alan Skelley / Map 69, Lot 21**

**September 2, 2020**

**Applicant:**    **Champ II, LLC**  
                  **C/O Alan Skelley, Member**  
                  **PO Box 736**  
                  **Moultonborough, NH 03254**

**Location:**    **374 Gov. Wentworth Highway, Moultonborough, NH (Tax Map 69, Lot 21)**

On September 2, 2020 the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Champ II, LLC (hereinafter referred to as the “Applicants” and/or “Owners”) for a variance from Article 5, Paragraph 504D to allow for an light emitting diodes (LED’s) Fuel Price Sign on their parcel located in the Residential/Agricultural Zone.

Based on the application, and testimony given at the hearings, the Board hereby makes the following findings of fact:

- 1) The property is located on 374 Gov. Wentworth Highway (Tax Map 69, Lot 21).
- 2) The applicant is the owner of record for the lot.
- 3) The applicant was represented at the Public Hearing by Peter March; N.H.
- 4) The lot is located in the Residential/Agricultural Zone.
- 5) The applicant is proposing an internally illuminated sign with gasoline and diesel prices to be displayed using light emitting diodes (LED’s) in two separate panels within the overall sign construct. Said panels shall be the only electronic, LED portions of the sign.
- 6) The existing sign is approximately 84 inches high by 61 inches wide, for a total of 35.5 sq. ft. and will be replaced with a new conforming size sign of 36 sq. ft. in the same location.
- 7) No members of the public spoke for or against the Variance request.

- 8) Granting the Variance would not be contrary to the public interest as it would improve the readability of the prices, and it would be safer for the price changer and be more aesthetic in appearance.
- 9) Granting the Variance would be consistent with the spirit of the Ordinance similarly, for the same reasons stated above.
- 10) By granting the Variance, substantial justice would be done there because there is no public benefit to be gained by denying the LED illuminated sign, while the loss to the applicant would be great because the ordinance language, when written, had no way of expressing the difference between what an LED type sign could do that was harmful and the type of technology, when properly employed, is ecofriendly.
- 11) Granting the Variance does not diminish the value of surrounding properties because the proposed LED sign will be displaying the same information in a different format.
- 12) No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision because the use of LED lighting in this instance maintains the public purpose which is safety and general welfare from such things as may occur when employing electronic message centers such as flashing, animated, changing colors, intensities and videos when this proposal is limited to static numbers only, changed no more than twice a day.

On September 2, 2020, the Zoning Board of Adjustment by a roll call vote, voted (5) in favor (St. Peter, Jenny, DeMeo, Bickford, Stephens) and none (0) opposed to grant the request for a variance for Champ II, LLC, Tax Map 69, Lot 21 to permit an LED illuminated Fuel Price Sign subject to the following conditions; 1. That each module (of two) displays only the price of unleaded gasoline and the price of diesel fuel. 2. That the price on each module change no more than twice in any 24 hour period. 3. That only numbers necessary for fuel pricing be used; no graphics, moving characters, flashing, intensity change or changing colors shall be employed. 4. That the daytime intensity (nits) of the LED's shall be reduced at dusk to generally acceptable levels established by the Illuminating Engineering Society of North America (IESNA) for LED sign illuminance. The daytime maximum being 5000 nits and the nighttime maximum being 500 nits which roughly equates to 0.3 foot candles above ambient light. This shall be accomplished by installing an ambient light sensing mechanism (photocell) which automatically adjusts the sign's brightness based on current ambient light conditions. 5. That the signs lights be turned off 30 minutes after the establishment ceases the sale of gasoline. 6. That the foregoing conditions be included as requirements in the sign permit and further to close the Public Hearing. They moved to direct Staff to draft a formal Notice of Decision for review and approval for signing at the next Zoom meeting.

The Board of Adjustment, on September 16, 2020, approved this formal Notice of Decision language and authorized the Chairman to sign the Notice of Decision and send to the applicant and place same in the case file by a vote of five (5) in favor (Stephens, Bickford, St. Peter, Jenny, Hopkins) and none (0) opposed.

The decision made to Approve the variance on September 2, 2020, shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.

A handwritten signature in blue ink, reading "Robert H. Stephens", is written over a horizontal line.

Robert H. Stephens  
Chairman, Zoning Board of Adjustment  
cc. Map Lot Document File

Date: September 17, 2020

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