

EPSOM BOARD OF ADJUSTMENT
PO BOX 10, EPSOM, NEW HAMPSHIRE 03234
RECORD OF DECISION

Zoning Appeal: Case 2021-08 (Eames-Var.)

Applicant: Rachel Eames

Owner: Eames Revocable Trust of 2020

Tax Map: U-3 **Lot:** 11

Zoning District: Residential/Light Commercial

Notice is hereby given that the appeal submitted by Rachel Eames for a **Variance** to Article III, Section M (Signs), paragraphs 1 and 1b to permit the replacement of an existing sign with a new 134 sq. ft. sign (100 sq. ft. maximum allowed) a portion of which will be digital (which is not allowed) was **denied** by unanimous vote of the Zoning Board of Adjustment at the Public Hearing held on Wednesday, July 21, 2021. The property is located on Dover Road within the Residential/Light Commercial Zone and is identified by Epsom Tax Map U-3 as Lot 11.

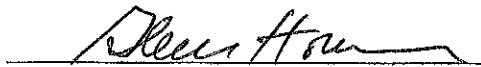
The variance was denied for the following reasons:

1. A digital sign is inconsistent with the spirit of the Residential/Light Commercial zone ordinance whose stated purpose is to preserve the historic features of the area and, by extension, its historic character. High tech digital signs are anything but historic and would be contrary to the public interest of preserving the historic nature of this zone.
2. The position taken that “other digital signs have been approved by the Board in the past” fails to recognize that these approvals were given exclusively to businesses located in the Residential/Commercial zone where no historic features are recognized and internally lit signs are permitted. Further, digital sign approvals in the Residential/Commercial zone have been increasingly conditioned to restrict animation making the electronic sign, essentially, an internally lit sign.
3. Granting of this variance would not provide substantial justice for the town. By granting the first digital sign in the Residential Light Commercial zone, the precedent would be set for allowing other such signs for businesses in this zone. Notably this point is clearly established by the applicant in using the existence of digital signs elsewhere in the community as justification for their approval. Consequently, the benefit realized by the applicant would come at the expense of a valid “equal protection under the law constitutional” argument against this portion of the sign ordinance in this zone to the detriment of the town with respect to maintaining zoning compliance.
4. Special conditions of the property that distinguish it from other properties in the area are not found that support the variance. The

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property is a pre-existing, non-conforming lot of 1/3 of an acre with only 88' of public road frontage. Currently zoning requires 2 acres and 200' of road frontage for a business lot making it significantly non-conforming by today's standards. Although other lots in the area (based on abutting lots) are similarly non-conforming, the majority do conform to current zoning. In addition, the lot is situated on Route 4 such that the existing sign is highly visible from both directions. Further visibility enhancements which violate the sign ordinance are therefore unnecessary. Based on these findings, making this already significantly non-conforming lot more non-conforming is not in the public interest.

5. Denial of the variance would not create an unnecessary hardship. The property has hosted multiple well established businesses for decades, two of which are owned by the applicant and have been highly successful resulting in the subsequent establishment of branch offices in other towns throughout the region.
6. Finally, it was determined during the Public Hearing, that the lot contains three businesses and not two as applied for and considered in the creation of the Public Notification. Per Zoning Ordinance Article III. M. 4, the total sign area allowed for three or more businesses is 80 sq. ft., significantly less than that requested. Consequently, this variance appeal could not have been approved as submitted even if it had satisfied the variance criteria.



Glenn A. Horner, Chairman
Zoning Board of Adjustment
Date: July 22, 2021

Note: Any person affected has the right to appeal this decision and/or conditions of the approval. If you wish to appeal the decision, or any conditions contained herein, you must act within a thirty (30) day period beginning with the next working day after the Zoning Board of Adjustment meeting when the decision was made. The first step in the appeal process is to apply to the board of adjustment for a rehearing. The motion for a rehearing must set forth all the grounds on which you will base your appeal.

cc: Jeffrey & Rachel Eames, 35 Howard Lane, Epsom, NH 03234
Epsom Board of Selectmen
Epsom Planning Board Chair
Epsom Zoning Compliance Officer
Epsom Town Clerk
File Case 2021-08 (Eames-Var.)