

**MINUTES**  
**PEMBROKE ZONING BOARD OF ADJUSTMENT**  
**July 27, 2015**

**Pending 7-30-2015**

**MEMBERS PRESENT:** William Bonney, Chair; Bruce Kudrick, Vice Chair; Tom Hebert, Dana Carlucci, Paul Paradis

**ALTERNATES PRESENT:** Mark Johansen

**EXCUSED:**

**STAFF PRESENT:** Everett Hodge, Code Enforcement Officer; Susan Gifford, Recording Secretary

Chairman Bonney called the meeting to order at 7:10 p.m.

**PUBLIC HEARING**

Case #15-08-Z

Applicant: Larry D Wurster Enterprise Development, LLC  
236 Fourth Range Road  
Pembroke, NH 03275

Property Owner(s): Larry D Wurster Enterprise Development, LLC  
236 Fourth Range Road  
Pembroke, NH 03275

Property Address: 210 Fifth Range Road  
Pembroke, NH 03275  
Tax Map 939, Lot 63-2, located in the R-3D Rural Agricultural-Residential Zoning District.

**Continuation of Case 15-08-Z from June 22, 2015.** A request has been made for a **Variance** under Article IV, **Use Regulations** § 143-21 **Table of Dimensional and Density Regulations**. The applicant, Larry D. Wurster-Enterprise Development, LLC 236 Fourth Range Road Pembroke, NH is requesting a **Variance** to create a “back lot” as part of a 3 lot sub-division per §205-37 A thru C of the Pembroke Sub-Division Regulations. The property is owned by Larry D. Wurster Enterprises, LLC. The property is located at 214-232 Fifth Range Road Map 939 Lot 63, in the R-3D Rural Agricultural-Residential Zoning District.

**On June 22, 2015** Case #15-08-Z Larry Wurster/LDW Enterprise Development, LLC was continued to the ZBA meeting on July 27, 2015 pending verification of adequate Class V road frontage at 214-232 Fifth Range Road, as determined by the Code Enforcement Officer based on Town records.

The clerk read a letter dated July 7, 2015 to the Pembroke Zoning Board of Adjustment from Larry Wurster, Owner/Manager, requesting that we continue the case to August 24, 2015.

**MOTION:** Per the July 7, 2015 written request from Larry Wurster, Bruce Kudrick moved to continue the Variance Case #15-08-Z until August 24, 2015. Dana Carlucci seconded.

**VOTE:** BILL - YES TOM – YES BRUCE - YES  
PAUL – YES DANA- YES

**MOTION TO CONTINUE THE PUBLIC HEARING FOR CASE #15-08-Z TO AUGUST 24, 2015 AS REQUESTED BY APPLICANT PASSED 5-0.**

**PUBLIC HEARING**

Case #15-06-Z

Applicant: Hillside Baptist Church  
547 Pembroke Street  
Pembroke, NH 03275

Property Owner(s): Hillside Baptist Church  
547 Pembroke Street  
Pembroke, NH 03275

Property Address: 547 Pembroke Street  
Pembroke, NH 03275  
Tax Map 563, Lot 22-2 located in the LO Limited Office and AD  
Architectural Design Zoning Districts.

**Continuation of Case 15-06-Z from June 22, 2015.** The applicant, Hillside Baptist Church 547 Pembroke Street, Pembroke, NH is appealing the Code Enforcement Officer's decision to deny an (EMC) electronic message center sign to replace an existing sign at 547 Pembroke Street. The property is located at 547 Pembroke Street, Map 563 Lot 22-2 in the LO Limited Office and AD Architectural Design Zoning Districts.

**On June 22, 2015** the ZBA voted to move the hearing date for Hillside Baptist Church Case #15-06-Z to the ZBA meeting on July 27, 2015 as requested by the applicant through their representative Attorney Tierney.

Mr. Everett Hodge confirmed that all abutters were notified. Chairman Bonney opened the public hearing at 7:12 PM.

There were 5 regular members and 1 alternate member present. Therefore, there was a full five-member board present for this hearing. Chairman Bonney explained the rules of the hearing. The Board makes its decision based upon the facts presented by the applicant. If any of these facts are subsequently found to be different, the Board reserves the right to revisit its decision.

The clerk read a notarized authorization signed May 23, 2015 by Albert Page to allow Attorney Michael Tierney, or any attorney from Wadleigh, Starr and Peters PLLC to represent Hillside Baptist Church in any Town of Pembroke hearings needed to gain approval for an electronic messaging sign.

This case is an administrative appeal of the Code Enforcement Officers denial of an electronic message sign at 547 Pembroke Street in the LO and AD zoning District. Attorney Tierney noted that if the church were located 1250 feet further north in the Commercial District or south of Main Street, an electronic messaging sign would be allowed by zoning. In interpreting the zoning ordinance in compliance with State and Federal law, we note that Pembroke Academy put up an electronic messaging sign without Town approval. Chairman Bonney stated that the School District is exempt from zoning as a government entity and chose not to comply with Pembroke Zoning.

Attorney Tierney stated that Federal statute RLUIPA has equal terms provision, which means a religious use like a bible message must be treated the same as a non-religious use. In the State of Washington, a school was allowed to install bright lights on its football field and religious uses have the same right.

Federal statute also has a low level substantial burden provision, meaning a town cannot apply a zoning ordinance so as to burden a broad religious use. The Seventh Circuit Court in NH ruled that a church does not have to get a variance where another entity does not have to. The ZBA meets to apply zoning in conformance with NH Constitution. Under the equal terms provision, the State of NH court ruled that a State of NH halfway house was located in Manchester, NH and, therefore, a private entity also needs to be given an exemption to locate a halfway house in Manchester, NH. Attorney Tierney stated that the Federal Constitution allows free speech and due process. A town cannot require a church to get a variance when a school does not have to for a similar sign. The Supreme Court ruled on a 9-0 vote in *Town v Gilbert AZ* that the town was in error. Attorney Tierney stated that the Hillside Baptist Church pastor, associate pastor and about 20 members of the church were at this hearing in support of the sign. Members of Signs for Jesus were also in attendance to support the appeal for reversal of the Code Enforcement Officer's decision to deny a sign permit. The Hillside Baptist Church lot is 4 acres and has 270 feet of frontage.

John Newman, Northwood NH is from the High Ministry Church. He is a decorated Canadian citizen who served in Viet Nam and is now a legalized American citizen. He is in favor of the sign and Live Free or Die.

Josh Mohan, 318 Borough Road, noted that there are plenty of other signs located in Pembroke and the design of this sign is not intrusive.

Ann Lavalley, 47 Donna Drive, stated that she understands keeping Route 3 non-business but the church group is not asking for a blinking sign. They want to display a daily bible verse.

Jim Robertson, Pastor, Hillside Baptist Church, 547 Pembroke Street, stated that there is constant noise and activity across the street at the natural gas facility and the Mobil filling station, with 18 wheelers coming out of Commerce Way. There is much commercial activity across the street.

Fab Cusson, Barnstead, NH, President of Signs for Jesus, Chichester NH, stated that the electronic message sign in Chichester is not big or flashy, has been operating four and a half years, and provides a message of hope and inspiration to the community.

Patricia Labonte, 210 Pembroke Street, agreed that Hillside Baptist is an appropriate place to locate a message of hope for truckers in the middle of the night.

Chris Andrews Sweatt, 316 Church Street, said she has lived in Pembroke 15 years and thinks a message sign in Pembroke would be great. She sees no reason the Church should be denied an electronic sign.

Dianne Schuett, 533 Pembroke Street, spoke in opposition as did others. Dianne is opposed to overruling the Code Enforcement Officer's decision to deny the sign and retain the residential nature of Pembroke Street. Dianne made several points:

1. There are 20 businesses and churches along Route 3 who will want electronic message signs if this is approved. We do not want to spoil the rural, residential character of the Route 3 corridor in Pembroke. We do not want to create another Hooksett.
2. What are the proposed hours of operation? What is the frequency of the message change?
3. Traffic safety is a concern. NH DOT states that 25% of all crashes are due to distracted driving. The electronic message sign will be a distraction.

4. Constitutionality is not an issue. The issue is the nature of the sign. The church has an existing sign which can be used to post their messages now..

Jay Smith, 386 Pembroke Street, states that he bicycles a lot and feels vulnerable. The Associated Grocer entrance makes any distraction at this location unwelcome, especially if the message is moving or changing. The zoning ordinance has valid restrictions on signs in the LO District.

Mr. Dialto, 720 Batchelder Road, stated that he has no problem with a sign with a message. He is concerned about a larger, more eye catching sign being a distraction. If the town does not have the authority to regulate this sign, what authority does it have? The school sign referred to is not under the authority of the town. The presence of the church is well established with its existing sign.

Janet Anderson, 469 Pembroke Street, stated that she has lived in Pembroke since 1942. Recently, the golf course wanted a new sign and followed all zoning regulations. The Hillside Baptist Church has a lighted sign now. Janet wishes the school would turn their light off when school is not in session. It has been flashing due to malfunction.

Sara Smith, 386 Pembroke Street, is opposed to a lit or flashing sign. There are signs within 30 feet of my house across the road. The school sign is outside the realm of zoning. Why can't other organizations request electronic message signs if this is approved? Electronic messaging signs should be discussed at a Town vote.

Ayn Whytemare, Borough Road, stated her family had the first minister in the area in the 1700's, She is not Christian and does not support a large sign implying everyone in town is Christian at an entrance to town. Ann stated that the Cooperative loop road is underway and will reroute commercial traffic to a new stoplight at Route 106. Trucks will no longer travel Pembroke Street when the road extension is complete. The area is residential in nature and should remain so...

Mark Lavalley, 47 Donna Drive, stated that he is constantly bombarded by flashing signs. He can certainly read a non-flashing sign.

Attorney Tierney stated that many of the points raised relate more to the variance request and are not germane right now. To clear up misconceptions about the proposed sign, it will not be blinking, the message will not be moving and the message will only change once every 24 hours. The sign will have colors, but will only use one color at time. The proposed sign will comply with all zoning regulations for electronic message signs. The church staff now has to go a great distance, sometimes in bad weather, to change the letters on the static sign. The proposed sign will not be animated or flashing. Attorney Tierney stated that the church would welcome restrictions on the proposed sign. Similar signs at Clean Energy and the Mobil station across the street are no more distracting than a bible message will be. Operating hours, brightness etc. will comply with applicable zoning regulations. As far as being the first in a long line of electronic messaging signs, Hillside Baptist Church has a lot of acreage. An electronic message sign cannot be located within 200 feet of any residential dwelling. Not all properties have large acreage and 270 feet of frontage on Pembroke Street, and can meet the 200 feet requirement. This property is unique.

Patricia Labonte, 310 Pembroke Street, stated that in NH the Hands Free Driving law went into effect July 1, 2015. A motorcycle crash in the area of the proposed sign was because of texting.

James Labonte, 310 Pembroke Street, stated that it would be interesting to find out if there are any statistics on traffic accidents increasing because of the Pembroke Academy sign.

Mr. Sprague, Center Barnstead, a Director of Signs for Jesus, stated that in Chichester NH, 30,000 cars pass the sign each day and no accidents have been reported.

Dan Wurster, Board of Director member of Signs For Jesus, Loudon NH stated that the Town of Chichester asked NH DOT for figures before and after the electronic message sign in Chichester NH was installed. There were no figures available. Actually, cars slow down at the intersection to read the sign.

Sally Highland, Batchelder Road, noted that the proposed size for the Hillside Baptist Church electronic message sign is 7 feet by 7 feet or 49 square feet. Sally noted that both the sign at Pembroke Academy and the sign at Four Corners in Chichester are located at a traffic signal. The Hillside Baptist sign is not so it would create concern involving accidents.

Gary Reap, Warren, Arkansas, a Director of Signs for Jesus stated he drove to NH to testify about a 6 foot by 12 foot sign, full color and animated similar to that in Times Square NY is located on a three lane highway where the speed limit is 55 miles per hour. This sign went on one week before the sign in Chichester NH. The blue border on the sign in Arkansas makes it look like a traffic stop. As it is located in a dry county, cars slow down and get rid of contraband near it. This sign is on 24/7 and not one negative comment or one accident has been reported.

Alfred Page, 369 Upper City Road, Loudon NH stated he was pastor of Hillside Baptist Church for 30 years. It is hard to change the letters on the existing sign and he can't find volunteers. On Signs for Jesus, the message changes internally.

John Thurner, Sherbrook Meadows, stated it is a distraction to read signs.

Dianne Schuett, 533 Pembroke Street, stated that the Clean Energy sign is not visible from Route 3. All signs on Pembroke Street turn off at night or when the business closes. The Chichester electronic message sign is at a commercial corner.

Sally Highland, Batchelder Road, asked for clarification on the 200 feet regulation. It is 200 feet from a sign to a dwelling residence, not the property line. Concerns about aesthetics on Pembroke Street were voiced.

Mr. Dialto asked if the sign is approved, what would keep the church across the street or others from having similar signs.

Amanda Robertson, 547 Pembroke Road, stated that her father is the pastor at Hillside Baptist Church and she finds the messages encouraging.

Jack Ward, 233 Pembroke Street, member of Hillside Baptist Church, stated that the house on the hill at 547 Pembroke Street is the house of God, not commercial use. Please follow the law.

Chairman Bonney summarized the case. The applicant, Hillside Baptist Church 547 Pembroke Street Pembroke, NH is appealing the Code Enforcement Officer's decision to deny an (EMC) electronic message center sign to replace an existing sign at 547 Pembroke Street. The property is located at 547 Pembroke Street, Map 563 Lot 22-2 in the LO Limited Office and AD Architectural Design Zoning Districts. The location is 1250 feet from Route 106, where an electronic messaging sign would be allowed. Because the School District is not subject to zoning regulations, they implemented an electronic messaging sign at Pembroke Academy against the wishes of the town. Under the equal terms provision, it was stated that if the school can have an electronic sign, a church cannot be made to obtain a variance for an electronic message sign. It was stated that electronic message signs are a distraction and may cause accidents at this intersection. Again, the sign at Pembroke Academy was installed without the approval of the town. The School District is a separate governmental unit. The area is a residential zoning district that has allowed some commercial uses to come in. If the electronic message sign were approved, Hillside Baptist Church would comply with all electronic sign regulations. The sign would not flash or blink. The Mobil gas sign is turned off at 9 PM each evening. There are over 20 churches and businesses along the Route 3 corridor. It was stated that there is a difference between being on the phone and looking at a sign. There is no traffic light at this intersection, as there is at Pembroke Academy and in Chichester NH where message signs are located. It was stated that NH DOT flashing signs are a distraction but are only temporary. No testimony on property value was given. It was alleged that the rural nature of the neighborhood would be affected.

There being no further comment, Chairman Bonney closed the public hearing at 8:35 p.m.

**Deliberations:** Bruce Kudrick stated that the Code Enforcement Officer followed the Pembroke Zoning Regulations as written, and could not approve a permit for an electronic message sign at 547 Pembroke Street. He advised the applicant of his options, including applying for a variance. Dana Carlucci noted that a lot of concerns voiced in the public hearing were variance related. The focus right now is on the Appeal of Administrative Decision of the Code Enforcement Officer.

Again, Tom Hebert noted that the Code Enforcement Officer followed the zoning regulations that the people of Pembroke voted on and could not approve the sign requested within the law. Section 143-62 confirms the basis for the Code Enforcement Officer's denial. Regarding the electronic message sign at Pembroke Academy, The Town Administrator sent a letter to Pembroke Academy asking them not to install an electronic messaging sign. The School Board, as its own governmental entity, authorized the sign without going to the Zoning Board of Adjustment.

Chairman Bonney stated that under the equal terms provision of RLUIPA, the Zoning Board cannot apply the same process to Hillside Baptist Church as Pembroke Academy because Pembroke Academy did not need to appear before the Zoning Board of Adjustment. Associated Grocers, Clean Energy, and Mobil (grandfathered) came to the ZBA to change their signs. Paul Paradis noted that Mobil followed the sign regulations at the time for the District it is located in. The reason the Town does not want an electronic message sign in this area is to maintain the rural character of the Pembroke Street corridor. As noted in Section 11, page 8, of the Pembroke Master Plan, this is a long standing, broad brush decision and is not arbitrary or narrowly tailored as suggested in the May 27, 2015 letter from Wadleigh, Starr and Peters, PLLC.

Chairman Bonney read a section of RLUIPA. There is a compelling interest in keeping the rural nature of Route 3 Pembroke Street. The Board discussed that the Code Enforcement Officer did not err in making his decision relative to the electronic message sign. He was following the rules and regulations of the Town of Pembroke.

Chairman Bonney stated that the Zoning Board of Adjustment was very disheartened that Pembroke Academy chose to install an electronic message sign. Paul Paradis agreed that Pembroke Academy put the Town in a difficult spot. Bruce Kudrick stated that the townspeople do not want the look of Hooksett along Pembroke Street. The Planning Board regulations and Zoning Ordinance regulations follow the townspeople's wishes.

**MOTION:** Bruce Kudrick moved that the Code Enforcement Officer did not err and to uphold the Decision of the Code Enforcement Officer to deny an electronic message center sign to replace the existing sign at 547 Pembroke Street, Map 563, Lot 22-2 in the LO Limited Office and AD Architectural Design Zoning Districts.  
Dana Carlucci seconded.

**VOTE:** BILL - YES TOM - YES BRUCE - YES  
PAUL - YES DANA- YES

MOTION TO UPHOLD THE DECISION OF CODE ENFORCEMENT OFFICER PASSED 5-0.

**PUBLIC HEARING**

Case #15-07-Z

Applicant: Hillside Baptist Church  
547 Pembroke Street  
Pembroke, NH 03275

Property Owner(s): Hillside Baptist Church  
547 Pembroke Street  
Pembroke, NH 03275

Property Address: 547 Pembroke Street  
Pembroke, NH 03275  
Tax Map 563, Lot 22-2 located in the LO Limited Office and AD Architectural Design Zoning Districts.

**Continuation of Case 15-07-Z from June 22, 2015.** A request has been made for a **Variance** under Article VIII, **Signs § 143-63 Special conditions for specific types of signs X Electronic Changing Signs**. The applicant, Hillside Baptist Church 547 Pembroke Street Pembroke, NH is requesting a **Variance** to install an (EMC) electronic message center at 547 Pembroke Street to replace an existing sign. A Variance is required because based on Table 143-62 **Dimensional Table of Signs** this type of sign is not allowed in the LO Zoning District. The property is owned by Hillside Baptist Church, 547 Pembroke Street, Pembroke, NH 03275. The property is located at 547 Pembroke Street Map 563 Lot 22-2, in the LO Limited Office and AD Architectural Design Zoning Districts.

Mr. Everett Hodge confirmed that all abutters were notified and were the same abutters as read in Case #15-06-Z.

Chairman Bonney opened the public hearing at 8:50 p.m.

There were 5 regular members and 1 alternate member present. Therefore, there was a full five-member board present for this hearing. Chairman Bonney explained the rules of the hearing. The Board makes

its decision based upon the facts presented by the applicant. If any of these facts are subsequently found to be different, the Board reserves the right to revisit its decision.

Copies of appeal dated May 27, 2015 pursuant to RSA 676:5 of the Code Enforcement Officer's decision dated May 27, 2015, photographs of similar signs in the area, and assessment card and application for Variance so that, if the ZBA declines to grant the appeal of the Code Enforcement Officer's decision, the board can move directly to the Variance request.

A notarized letter dated May 28, 2015 from the owner, Alfred Page, Associate Pastor of Hillside Baptist Church, authorized the Law Firm of Wadleigh, Starr & Peters, PLLC to represent the Church before the Pembroke Zoning Board of Adjustment, as well as any other Boards or agencies, in appealing the Code Enforcement Officer's Decision to deny an electronic message sign at 547 Pembroke Street, Pembroke NH.

Attorney Tierney noted that if the church were located 1250 feet further north in the Commercial District or south of Main Street, an electronic messaging sign would be allowed by zoning.

Attorney Michael Tierney addressed the variance criteria:

Please give a detailed description of your proposal below:

Attorney Tierney noted that if the church were located 1250 feet further north in the Commercial District or south of Main Street, an electronic messaging sign would be allowed by zoning.

The applicant, Hillside Baptist Church, is seeking a Variance from the restrictions of not allowing electronic message signs 1250 feet south of the Commercial Zoning District. The church will comply with all the specific provisions applicable to electronic message signs in the zoning ordinance. This would include brightness, dimming at night and any other conditions the Town determines are necessary.

No prior Special Exception or Variance has been received on this property.

**1. The variance will not be contrary to the public interest.**

The proposed electronic message sign will meet all the EMS sign conditions except for location. There will not be a traffic concern. There will be no altering of the neighborhood. The majority of properties adjacent and diagonally across from the church are businesses in the LO District.

**2. The spirit of the ordinance is observed.** The spirit of the ordinance is absolutely met. To minimize any possible negative effects, the sign will be kept at 8000 nits during the day and 1600 nits at night per the sign ordinance.

**3. Substantial justice is done.** By granting a variance, there is substantial justice. The loss to the church outweighs the benefit to the public. Pastor Page commented on the difficulty of changing the letters on the sign in inclement weather. There is no measurable effect on the public, but there is a huge effect on the Hillside Baptist Church's ability to spread the message and change the daily bible verse.

**4. The values of surrounding properties are not diminished.** No testimony on property values was presented. The proposed sign will be in the same location as the existing sign.

**5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.**



- i. **No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because:**
- ii. **The proposed use is reasonable.**

**B. If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to make a reasonable use of it.**

There is unnecessary hardship due to the special conditions of the church. Due to its location on the hill, the Hillside Baptist Church cannot use a sign on the building to promote its message. The church lot is 4 acres with 270 feet of frontage on Pembroke Street. The sign will be at least 200 feet from any dwelling unit as required by the ordinance.

It was discussed that the Presbyterian Church and United Church of Christ offices with ZBA approval are located in the Commercial Zoning District along Route 106.

Attorney Tierney called the Board's attention to the photograph of the Mobil gas price sign with electronic numbers. You can see the existing church sign diagonally across the street. The proposed sign will not be overly bright, will not flash and will not change more than once every 24 hours. Bruce Kudrick asked how high off the ground the existing sign is. The existing sign is 3-4 feet above the ground to be seen through the maple trees. The proposed sign is 7 feet by 7 feet on a 7 foot pole, making it 14.2 feet above the ground.

Everett Hodge confirmed that the size allowed for a free standing sign in the LO district is 12 square feet. Any sign over six feet in height may not have more than two sides. A free standing sign in the C1 District is allowed to be 100 square feet. Chairman Bonney asked exactly how big the proposed sign would be. The changing message portion would be 35 square feet and the non-changing portion would be 14 square feet for a total of 49 square feet. Attorney Tierney stated that if the Board wished, the church would be willing to put landscaping and flowers and lower the sign similar to Pembroke Academy. Mark Johansen clarified that the proposed electronic message sign would be in the same location as the current sign. Setbacks from the road are determined by the State of NH.

Lisa Sprague, Center Barnstead NH, stated that the majority of the people at this meeting are in favor of the sign. If the sign had to be made smaller, could it be? Attorney Tierney stated that the letters of the message would also be smaller. Section 143 addresses size of letters as 10 inches high, limited to 4 lines of text. A sign capable of 4 lines of text with 10 inch letters is being requested.

Jim Robertson, 547 Pembroke Street, stated that the Mobil station is across from us and commercial business has been invited into residential area. Alfred Page, Hillside Baptist Associate Pastor, stated that the existing sign was replaced 4-5 years ago. The message board with sign currently is 12 square feet with 6 inch letters. The proposed sign is just over six feet tall. Jim Robertson is 6 feet 4 inches.

Everett Hodge stated he has been with the Town of Pembroke eight years and he did not issue a permit to replace the Hillside Baptist sign so it must have been longer ago. Attorney Tierney noted that per Section 143-66 lots are allowed up to 2 signs. Everett Hodge clarified that 2 free standing signs are allowed with 300 or greater feet of frontage.

Sally Highland, Batchelder Road, stated that local government entities do not have to comply with zoning, so it is unrealistic to compare the church sign with the Pembroke Academy school sign. Sally can see a need to change the school sign from inside. The bottom of the proposed sign starts at 6 feet. Sally Highland is opposed to the Variance.

Mr. Dialto agreed that conventional signs are adequate. The Town is trying to reduce commercial business and traffic from the area by rerouting it to Route 106 on the loop road.

Dianne Schuett, 533 Pembroke Road, stated that the Mobil sign is grandfathered. All of the signs on Pembroke Street turn off after a certain hour.

Ayn Whytemare, Borough Road, stated if electronic message signs are something the church wants, why not bring it to Town Meeting on a warrant article? This would be a way to get view points and options.

Attorney Tierney stated that future discussion at Town Meeting is not relevant. Hillside Baptist Church is seeking a variance today. The sign ordinance is very specific about dimming the lights, etc. Is a biblical message less favorable than a school message? The ZBA must look at the five criteria for a Variance.

Bruce Kudrick asked if the church had looked at other signs that can do what they want to do. This type of electronic message board can be controlled and programmed once a week. If the sign is too high, the church can put the sign lower.

Roy Sprague, Center Barnstead NH, a Director of Signs for Jesus, stated that this type of sign is a step back from full color and animation, which is the newest technology. This is the latest LED technology. There is an electric eye inside the sign that adjusts it as programmed.

Pastor Al Page stated that the church is willing to lower the sign and enclose it in a masonry planter like Pembroke Academy. The sign regulations Section 143-64 call for lights to be off from 11:00 PM until 6:00 AM or when the business is closed. Pastor Robertson stated that the church wants to be in compliance with all regulations of electronic message signs. Bruce Kudrick noted that the Mobil station shuts the light off at 9:00 PM by condition of its variance.

Mr. Dialto stated that illuminated signs are at a transition point. Do we want them in this area? The church is willing to reduce the scope so their sign looks no worse than Pembroke Academy. Maybe it is time to take this question to Town Meeting.

Roy Sprague stated that the sign cabinet has different aesthetics possible. The sign is capable of showing a message in multiple colors, one color at a time. We could look into finding the most pleasing color.

Chairman Bonney summarized the case. This is Case 15-07-Z, a request for a Variance under Article VIII, Signs § 143-63, Special conditions for specific types of signs X Electronic Changing Signs. The applicant, Hillside Baptist Church 547 Pembroke Street Pembroke, NH is requesting a Variance to install an (EMC) electronic message center at 547 Pembroke Street to replace an existing sign. A Variance is required because based on Table 143-62 Dimensional Table of Signs, this type of sign is not allowed in the LO Zoning District. The property is owned by Hillside Baptist Church, 547 Pembroke Street, Pembroke, NH 03275. The property is located at 547 Pembroke Street Map 563 Lot 22-2, in the LO Limited Office and AD Architectural Design Zoning Districts.

It was discussed that a Variance would not be needed if the church were located on Route 106 or south of Main Street. If the Variance is approved Hillside Baptist Church will comply with all electronic sign regulations. The Mobil station has LED lights for gas prices. Electronic message signs make it easier to change the message. The brightness level allowed by zoning is 8000 NITS during day and 1600 NITS at night. If the Hillside Baptist Church were on the street, it could have a sign on the building. Instead they have a free standing sign down by the road. Although there is a concern that other churches and businesses will want an electronic message sign, they may not have enough land to comply with the 200 feet from any residential dwelling requirement. The proposed sign is 7' x 7' or 49 square feet. The size allowed in the LO district is 12 square feet. In the C1 District, 100 square foot signs are allowed.

The sign on the drawing is 35 square feet electronic message and 14 square feet for the words "Hillside Baptist Church [www.Signs4Jesus.com](http://www.Signs4Jesus.com)". The Mobil sign is approximately the same size. It was suggested that the majority of the people in the room are in favor of the sign. Many don't live in Pembroke. If a sign were approved and the letters were too small, it would defeat the purpose of getting the message out. The existing sign is 3' x 4' with a 4' x 4' message area with 6 inch letters. The existing sign was purposely set low due to maple trees. Hours of lighting should be strictly limited. It was stated that the ZBA should abide by the zoning ordinance specifics on electronic message signs. Hillside Baptist Church wants to change the message daily. An electric eye controls the lighting. The church will lower the proposed sign or put in masonry and flowers if required to get a variance.

The ZBA can add conditions to a variance for hours of operation. The sign can be made more aesthetically pleasing. Attorney Tierney stated that the loss to the church outweighs the benefit to the public. The church can lower the sign to whatever is appropriate to the area. The photograph is a rendition of the sign.

There being no further comment, Chairman Bonney closed the public hearing at 10:02 p.m.

**Deliberations:** ZBA members discussed the Variance criteria. Dana Carlucci described the thorough process, with charrettes and surveys that the Town of Pembroke went through to update its Master Plan. Section 11, page 8 talks about priorities as ranked by residents. Number one was to enhance and maintain the traditional village character of Pembroke Street. Rural atmosphere was the highest rated quality by 73% of respondents as desirable features in a town. The Soucook River Development District was never meant to put traffic on Pembroke Street. Engineering of the loop road to Route 106 will occur in 2016-2017. This is the direction voted on by the Town.

1) The variance will not be contrary to the public interest. Chairman Bonney stated that maintaining the rural character of Pembroke Street is a compelling public interest under RLUIPA. The town discourages electronic message signs along the entire Pembroke Street corridor. If approved, others would follow suit and it would destroy the rural atmosphere of Pembroke. This reasonable measure is the least restrictive available. The church has an existing sign it can utilize. This is advertising, just like on the Pembroke Pines Country Club sign. Pembroke Academy implemented an electronic message sign against the will of the town. The Hillside Baptist Church is well established with the existing 12 square foot sign. The Congregational Church has a 12 square foot sign. Tom Hebert stated that electronic message signs are not allowed in the LO District. It is contrary to the public interest. It is contrary to the Pembroke Master Plan. We could end up with electronic message signs all along the Pembroke Street corridor.

2) The spirit of the ordinance is observed.

It is against the spirit of the ordinance because electronic message signs are not allowed in that zoning district.

3) Substantial justice is done.

Attorney Tierney stated there is no gain to the public. Chairman Bonney strongly disagrees. Electronic message signs could have a highly detrimental effect on the character of the town. The long term Master Plan survey results show maintaining rural character is the number one desired quality in Pembroke. At the 2012 Town Meeting the Electronic Message Sign ordinance was added, along with #9 Standards of illuminated signs to prevent damage to the character of the Town of Pembroke.

4) Property values are not diminished. No testimony that property values would be diminished was provided.

5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. The Hillside Baptist Church is well established with the existing 12 square foot sign.

**MOTION:** Bruce Kudrick moved to **DENY** a Variance for Case #15-07-Z, under Article VIII, Signs § 143-63, Special conditions for specific types of signs X Electronic Changing Signs. The applicant, Hillside Baptist Church 547 Pembroke Street Pembroke, NH is requesting a Variance to install an (EMC) electronic message center at 547 Pembroke Street to replace an existing sign. A Variance is required because based on Table 143-62 Dimensional Table of Signs this type of sign is not allowed in the LO Zoning District. The property is owned by Hillside Baptist Church, 547 Pembroke Street, Pembroke, NH 03275. The property is located at 547 Pembroke Street Map 563 Lot 22-2, in the LO Limited Office and AD Architectural Design Zoning Districts.

The Zoning Board of Adjustment voted **5 to 0** to **Deny** the **Variance** for the following reasons:

1. Approving the Variance would be contrary to Section XI-8 of the Master Plan for Pembroke which states in part "Zoning changes were encouraged in order to maintain and enhance the traditional village character of Pembroke." Allowing an electronic message sign along Route 3 would not be in keeping with the village character.
2. Approving the Variance would be contrary to Article VIII-Signs §143-57 **Purpose** A. thru D. of the Pembroke Zoning regulations.
3. Approving the Variance would be contrary to Article VIII **Signs** § 143-64 **Standards for the Illumination of Signs** #9.
4. Approving the Variance would detract from the rural character of the Route 3 corridor from Route 106 to Main Street.
5. The compelling government interest is maintaining the rural residential character of the entire Route 3 corridor. Not allowing Electronic Message signs is the least restrictive measure to further the previously mentioned compelling government interest.
6. The church is not being treated on less than equal terms than other religious or non-religious institutions. Pembroke Academy, contrary to the Town's written request, was able to implement an Electronic Message Board because per RSA 674:54 governmental land uses are exempt from local land use regulations.
7. The Variance would be contrary to the spirit of the Zoning Ordinance which promotes comfort, peace, safety and enjoyment within the Town of Pembroke.
8. The Variance would be contrary to the Public interest as allowing this type of signage in the residential area would violate the basic zoning objectives of the Pembroke Zoning Regulations.
9. Denying the Variance would not cause an injustice to the applicant as there is an existing sign which can continue to be used.

Tom Hebert seconded.

**VOTE:** BILL - YES TOM - YES BRUCE - YES  
PAUL - YES DANA- YES  
MOTION TO DENY A VARIANCE PASSED ON A 5-0 VOTE.

**PUBLIC HEARING**

Case #15-09-Z

Applicant: Matthew Allgeyer  
PO Box 176  
Suncook, NH 03275

Property Owner(s): Matthew Allgeyer  
PO Box 176  
Suncook, NH 03275

Property Address: 16 Kimball Street  
Pembroke, NH 03275  
Tax Map VE, Lot 107 located in the B-1 Business/Residential and AC  
Aquifer Conservation Zoning Districts.

**Case 15-09-Z** A request has been made for a **Variance** under Article V **Dimensional and Density Regulations**, § 143-21 **Table of Dimensional and Density Regulations**. The applicant, Matthew B. Allgeyer is requesting a 30 foot reduction from the required 80 foot road frontage on Kimball Street. The reduction of the road frontage to 50 feet would allow for the construction of a single family home at 16 Kimball Street. A **Variance** is required because the existing "lot of record" does not have the required 80 foot road frontage on Kimball Street as required by § 143-103 **Lot of record** part C. The property is owned by Matthew B. Allgeyer; P O Box 176, Suncook, N. H. 03275. The property is located at 16 Kimball Street, Map (VE) Lot (107) in the B-1 Business / Residential and AC Aquifer Conservation Zoning Districts.

The Board discussed the late hour of the meeting, and the fact that the Zoning Board of Adjustment discontinues deliberations at 10:00 p.m., This was the fourth case submitted for July 27, 2015, therefore Case #15-09-Z would be continued to the next ZBA meeting August 24, 2015. Abutters will not be renoticed.

**MOTION:** Due to the time required for the three previous cases and the fact that the Zoning Board discontinues deliberations at 10:00 PM, Bruce Kudrick moved to continue Case #15-09-Z until August 24, 2015. Dana Carlucci seconded.

**VOTE:** BILL - YES TOM - YES BRUCE - YES  
PAUL - YES DANA- YES

MOTION TO CONTINUE THE PUBLIC HEARING FOR CASE #15-09-Z TO AUGUST 24, 2015  
PASSED 5-0.

**MINUTES OF PREVIOUS MEETINGS**

**MOTION:** Bruce Kudrick moved to approve the minutes of June 22, 2015 as amended. Tom Hebert seconded.

**VOTE:**            DANA - YES            TOM - YES BRUCE - YES  
                     PAUL - YES            BILL - YES MARK - YES

MINUTES OF JUNE 22, 2015 APPROVED AS AMENDED ON 6-0 VOTE.

**OTHER**

**OLD BUSINESS**

**NEXT MEETING**

**Date of next ZBA meeting** – Everett Hodge noted the next ZBA meeting would be on **Monday, August 24, 2015 at 7:00 p.m.**

**ADJOURN** **Motion:** Bruce Kudrick moved to adjourn. Dana Carlucci seconded. Vote was unanimous in favor of motion. Meeting adjourned at 10:27 p.m.

Respectfully submitted,  
Susan P. Gifford  
Recording Secretary