

**LONDONDERRY ZONING BOARD OF ADJUSTMENT
268B MAMMOTH ROAD
LONDONDERRY, NH 03053**

MINUTES FROM 04/17/19 MEETING

The meeting was called to order at 7:00 p.m. Members introduced themselves. The following members were present: Jacqueline Benard, Vice Chair; Jim Tirabassi, Clerk; Suzanne Brunelle, member; Brendan O'Brien, alternate member and Mitch Feig, alternate member. Also, in attendance were Brad Anderson, Code Enforcement Officer and Beth Morrison, Recording Secretary. Vice Chair Benard reviewed the hearing procedures.

I. APPROVAL OF MINUTES

J. Tirabassi made a motion to accept the March 20, 2019, minutes as presented.

The motion was seconded by B. O'Brien

The motion was granted, 3-0-2, with J. Benard and S. Brunelle abstaining.

II. REPORT BY TOWN COUNCIL – N/A

III. PUBLIC HEARING OF CASES

A. CASE NO. 2/20/19-1: Request for a variance from LZO 7.7.E.3 to allow an illuminated LED changeable electronic message board sign that is otherwise prohibited, 66 Nashua Road, Map 7 Lot 40-4, Zoned C-I, The Matarozzo Family Trust (Owner) and Speedway, LLC (Applicant) – continued from the March 20, 2019 meeting

B. O'Brien recused himself from this case. M. Feig was appointed a voting member. J. Tirabassi read the case into the record noting the case was continued from the March 20, 2019 meeting and the previous zoning cases. He read a letter (Exhibit 1) into the record. Carolyn Parker, 3 Lorion Ave, Worcester, MA addressed the Board.

She then reviewed the five criteria for the granting of the variance:

- (1) The granting of the variance is not contrary to the public interest: because the signs are not signs the ordinance is trying to inhibit, but rather price signs that would periodically change with the price of gasoline that would be static, not flashing, in nature.
- (2) The spirit of the ordinance is observed: because the current use of a gas station/convenience store is an allowed use in a C-I zone. She also noted that manual price signs involve someone using a large pole and ladder to physically change the price, which is dangerous in icy or windy conditions, so the use of electronic LED sign would reduce liability.
- (3) Substantial justice is done: because the LED price signs would have minimal impact to the site and surrounding properties.
- (4) Values of surrounding properties are not diminished: because the LED price signs would go unnoticed to the general public, which would not negatively impact the surrounding commercial property values.
- (5) There is 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 the gas station has been at this location for 39 years and does not feel the LED price signs conflict with the general public purpose of the zoning ordinance. She stated that the proposed use is a reasonable one.

Vice Chair Benard asked if the Board had any questions. J. Tirabassi asked if the sign itself would be changing. C. Parker said that the panel would come out of the sign. J. Tirabassi asked how the sign would be powered. C. Parker said it already has a power source as it is internally illuminated. S. Brunelle asked if the lettering was going to be red. C. Parker said that all gasoline price signs are red and is a national standard. S. Brunelle asked for some clarification on why the property is unique. C. Parker said that it is now a new standard for all price signs to be LED and there is a hazard to employees who have to physically get on a ladder to manually change the price signs now. S. Brunelle asked if C. Parker meant the use was what was different. C. Parker said that was correct. Vice Chair Benard asked if the applicant knew what times of day the gas prices change. C. Parker said that she was not sure, but knew that first thing in the morning the manager of the gas station would change the price. Vice Chair Benard asked who determined the price. C. Parker said that Speedway would. Vice Chair Benard asked if the local Speedway is in charge of the price change. C. Parker said she was not sure of that answer. Vice Chair Benard asked if the LED price sign could be changed 12 times during the day. C. Parker said it would never be changed that much and told the Board that a stipulation could be put into the decision that the price could only be changed up to twice day.

Vice Chair Benard asked for public input and there was none.

The Board closed public input and began its deliberation.

- (1) The variance would not be contrary to the public interest: because it would not alter the essential character of the neighborhood or threaten the health, safety or welfare of the general public.
- (2) The spirit of the ordinance would be observed: because it would not alter the essential character of the neighborhood.
- (3) Substantial justice would be done: because the loss to the applicant is greater than any gain to the public.
- (4) Values of the property would not be diminished: because it would not alter the essential character of the neighborhood.
- (5) There is no fair and substantial relationship that exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: because the property is unique in its location and use. The proposed use is a reasonable one.

J. Tirabassi made a motion in CASE NO. 2/20/19-1 to grant a request for a variance from LZO 7.7.E.3 to allow an illuminated LED changeable electronic message board sign that is otherwise prohibited, 66 Nashua Road, Map 7 Lot 40-4, Zoned C-I, The Matarozzo Family Trust (Owner) and Speedway, LLC (Applicant)

M. Feig seconded the motion.

The motion was granted, 4-0-0. The applicant's request for a variance was granted.

B. CASE NO. 4/17/19-1: Request for a variance from LZO 5.18.F to allow an accessory dwelling which exceeds the allowable 40% of the living area of the principal dwelling by 110 SF, 67 Shasta Drive, Map 9 Lot 18, Zoned AR-1, Christina and Russell Loder (Owners) and Diane Norway (Applicant)

B. O'Brien came back to the Board as a voting member for this case. M. Feig was appointed a voting member for this case. J. Tirabassi read the case into the record noting previous zoning cases. Diane Norway, 67 Shasta Drive addressed the Board.

She then reviewed the five criteria for the granting of the variance:

- (1) The granting of the variance is not contrary to the public interest: because it will not alter the essential character of the neighborhood and is an allowed use.
- (2) The spirit of the ordinance is observed: because the accessory dwelling fits into the same footprint as the primary dwelling and will not alter the essential character of the neighborhood.
- (3) Substantial justice is done: because the loss to the applicant would be greater than any gain to the public.

- (4) Values of surrounding properties are not diminished: because the essential character of the neighborhood will not be altered.
- (5) There is 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 the property is unique as it abuts Kelly Road, which is a discontinued road with a gas line running through it. She stated that the proposed use is a reasonable one.

Vice Chair Benard asked if the Board had any questions. S. Brunelle asked if the garage was a four car garage. D. Norway stated that it was and it was going on top of the existing garage footprint. M. Feig asked if someone was going to live in this space. D. Norway said yes someone would live there.

Vice Chair Benard asked for public input and there was none.

The Board closed public input and began its deliberation.

- (1) The variance would not be contrary to the public interest: because it would not alter the essential character of the neighborhood or threaten the health, safety or welfare of the general public.
- (2) The spirit of the ordinance would be observed: because it would not alter the essential character of the neighborhood.
- (3) Substantial justice would be done: because the loss to the applicant is greater than any gain to the public.
- (4) Values of the property would not be diminished: because it would not alter the essential character of the neighborhood.
- (5) There is no fair and substantial relationship that exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: because the property is unique as it abuts Kelly Road, which has a gas line running through it. The proposed use is a reasonable one.

J. Tirabassi made a motion in CASE NO. 4/17/19-1 to grant a request for a variance from LZO 5.18.F to allow an accessory dwelling which exceeds the allowable 40% of the living area of the principal dwelling by 110 SF, 67 Shasta Drive, Map 9 Lot 18, Zoned AR-1, Christina and Russell Loder (Owners) and Diane Norway (Applicant) as presented on Exhibit A-1.

M. Feig seconded the motion.

The motion was granted, 5-0-0. The applicant's request for a variance was granted.

II. Other business:

Adjournment:

S. Brunelle made a motion to adjourn at 7:50 p.m.

B. O'Brien seconded the motion.

The motion was granted, 5-0-0. The meeting adjourned at 7:50 p.m.

RESPECTFULLY SUBMITTED,



CLERK

TYPED AND TRANSCRIBED BY Beth Morrison, Recording Secretary.

APPROVED (X) WITH A MOTION MADE BY Mitch Feig, SECONDED BY Brendan O'Brien 3-0-0

From: [David Lee Colglazier](#)
To: [Jim Tirabassi](#)
Cc: [Laura Gandia](#)
Subject: ZBA Meeting
Date: Wednesday, March 20, 2019 11:57:02 AM

Dear Mr. Tirabassi,

I am writing to you as clerk of the ZBA with regards to:

CASE NO. 2/20/19-1: Request for a variance from LZO 7.7.E.3 to allow an illuminated LED changeable electronic message board sign that is otherwise prohibited, 66 Nashua Road, Map 7 Lot 40-4, Zoned C-I, The Matarozzo Family Trust (Owner) and Speedway, LLC (Applicant)

I am not in favor of allowing any electronic message board at this location in support of the regulations prohibiting such a device. I think that any type of message board or reader board is contrary to the Town's restriction on such devices.

In other communities I find them to be distracting because of their brilliance at night. They often have distorted or inappropriate colors to make them distracting. Sometimes one finds fast changing text, colors and scenes that I find to be ugly and cheap.

I can ask that you allow, by variance, the use of LED (light emitting diode) numbers on fuel pumps and on an overhead sign. There is an example of that use at another fuel station in the immediate area.

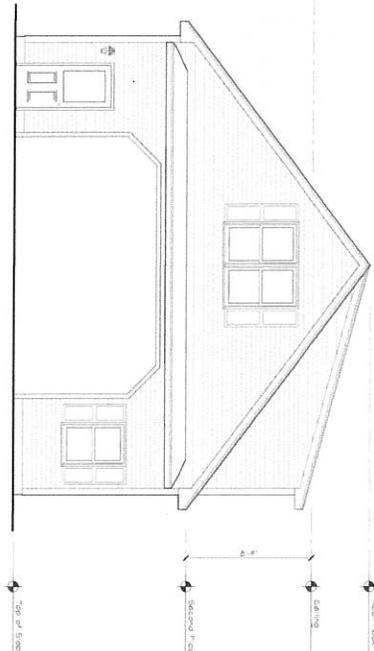
Also, I would request that the LED number information can only be changed at a maximum of twice per day. A further restriction would be that the LED numbers would work at a constant color.

Thank you for your consideration.

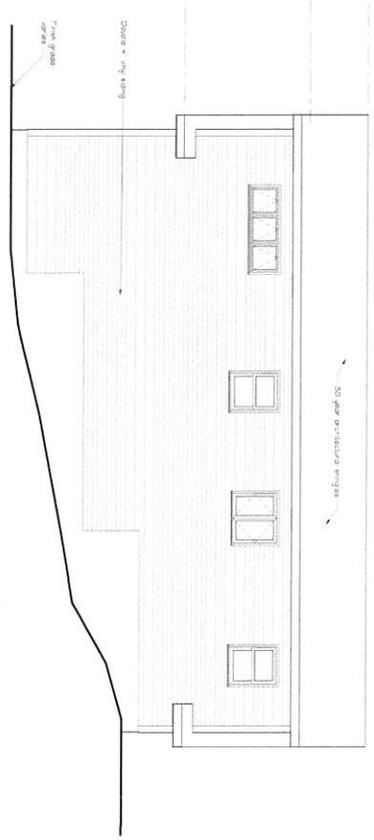
David Lee Colglazier
6 Moulton

David Lee Colglazier
6 Moulton Drive
Londonderry, NH 03053

603-425-1929
dlc@meganet.net

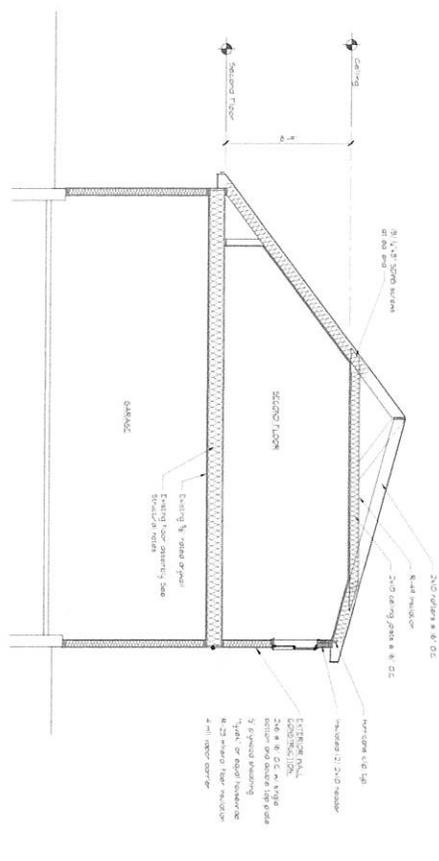


3 Front Elevation
SCALE 1/4" = 1'-0"

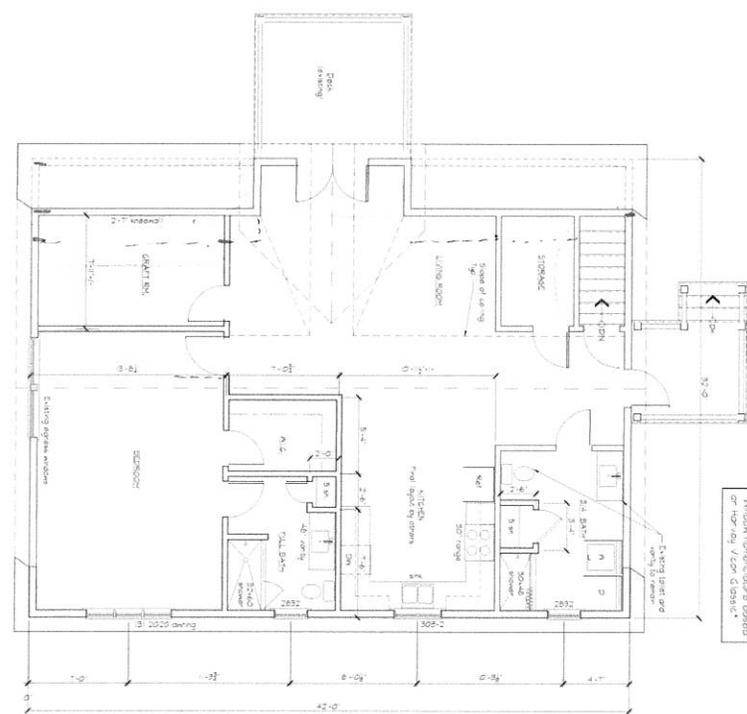


4 Right Elevation
SCALE 1/4" = 1'-0"

RESTRICTIONS NOTES
 Fiber ceiling design criteria 1-10 mph
 **Fiber construction is assumed to be 1/2" acid 1" joints a
 2" C.C. based on original permit drawings dated 05-25-07.
 The contractor shall verify the general contractor shall verify
 drawings from this to the designer.



2 Section
SCALE 1/4" = 1'-0"



1 Second Floor Plan
SCALE 1/4" = 1'-0"

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Spickett Hill Design LLC
 Residential & Commercial
 Space Planning and Design
 1000 Main Street
 1 Betsy Drive
 Londonderry, NH 03053
 Tel: 978.588.5544

Project
 Renovations to
 67 Shasta Drive
 Londonderry, NH 03053

Date	Revision
01/13/15	Issued for Review
01/15/15	Minor Revisions
01/20/15	Final Revisions

Scale: As Noted
 Date: 01/28/15
 File Name: 67 Shasta Road 01/24/15.dwg
 Sheet Content:

Plans and Notes

Sheet: **A-1**