

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

**MINUTES FROM 12/18/19 MEETING**

The meeting was called to order at 7:00 p.m. Members introduced themselves. The following members were present: Neil Dunn, Chair; Jim Tirabassi, Clerk; Suzanne Brunelle, member; Brendan O'Brien, alternate member and Mitch Feig, alternate member. Also, in attendance were Laura Gandia, Associate Planner; Brad Anderson, Code Enforcement Officer; and Beth Morrison, Recording Secretary. Chairman Dunn reviewed the hearing procedures. He appointed B. O'Brien and M. Feig to be full voting members this evening.

**I. APPROVAL OF MINUTES**

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

**The motion was seconded by S. Brunelle.**

**The motion was granted, 5-0-0.**

**II. REPORT BY TOWN COUNCIL – N/A**

**III. REGIONAL IMPACT DETERMINATIONS:** Associate Planner Gandia informed the Board that she had two projects for their consideration.

1. CASE NO. 12/18/19-1: Request for a variance from LZO 7.6.D.3.B.I to allow a 80 SF wall sign where only 40 SF are allowed, Four Orchard View Drive (Units 20-21), Map 7 Lot 42-2, Zoned C-I, Robert Carrier (Applicant) and Vernco Co., LLC (Owner)
2. CASE NO. 12/18/19-2: Request for three variances from LZO 4.3.3.B.1: (1) to allow only 28.8% amount of green space where 33% is required; (2) to allow only 15 feet of green perimeter along a public right-of-way where 30 feet is required; and (3) to allow only 0 feet of green perimeter where 15 feet is required, 33 Londonderry Road, Map 10 Lot 87, Zoned C-II, 33 Londonderry, LLC (Owner) and Advance Machine Technologies (Applicant)

Associate Planner Gandia recommended that the Board find that these projects are not developments of regional impact as they does not meet the criteria set forth by the Southern New Hampshire Regional Planning Commission.

**S. Brunelle made a motion to find that both projects are not of regional impact.**

**J. Tirabassi seconded the motion.**

**The motion was granted, 5-0-0.**

#### IV. PUBLIC HEARING OF CASES

**A. CASE NO. 12/18/19-1: Request for a variance from LZO 7.6.D.3.B.I to allow a 80 SF wall sign where only 40 SF are allowed, Four Orchard View Drive (Units 20-21), Map 7 Lot 42-2, Zoned C-I, Robert Carrier (Applicant) and Vernco Co., LLC (Owner)**

J. Tirabassi read the case into the record noting there are no previous zoning cases. Robert Carrier, 86 Searles Road, Windham, NH, and Bill Holbrook, from Bilsign Co, 372 Raymond Road, Candia, NH, addressed the Board. R. Carrier told the Board that he is opening up a sports bar in Londonderry, the first indoor corn hole facility. He explained that he is requesting a variance to allow an 80 SF wall sign for his business, as the units are about 300 yards from Route 102 for better visibility. He said that he has 65 feet of frontage. He noted that another tenant in the mall, Dollar Tree, had been before the Board with a similar request, which was granted.

He 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 threaten the health, safety or welfare of the general public nor alter the essential character of the neighborhood.
- (2) The spirit of the ordinance is observed: because it will not alter the essential character of the neighborhood.
- (3) Substantial justice is done: because the loss to the applicant would outweigh any gain to the public if the variance was denied.
- (4) Values of surrounding properties are not diminished: because the surrounding properties are similar in nature with similar signs to advertise their respective businesses.
- (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 the business is using two tenant spaces (Units 20 & 21), which would be allowed a minimum of 80 SF. He stated that the proposed use is a reasonable one.

Chairman Dunn opened it up to questions from the Board. S. Brunelle asked why there are three spots for pictures in his packet, when he is requesting two. R. Carrier told her that he took down a wall and now has two units for a total of 6,000 SF and 65 feet of frontage for a sign. Chairman Dunn asked if he was renting two spaces. R. Carrier told him that he has one lease for the business. Chairman Dunn explained that the variance stays with the property forever, so if in the future this would convert back to

two tenants, the Board has to make provisions if they were to grant the variance. S. Brunelle asked to have the measurements of the sign reviewed. B. Holbrook reviewed the picture of the sign with the Board and presented an example of channel lettering for the Board to view. Chairman Dunn asked if the backboard would be on the building. B. Holbrook said that it would not, it was just for a rendering. Chairman Dunn asked if Brad Anderson, Code Enforcement Officer, had done calculations on the sign. B. Anderson stated that he had and it came out to 79.06 SF. Chairman Dunn asked L. Gandia to clarify how the Board handled a similar request for signage. L. Gandia referenced Case No. 7/17/19-1, which stated as a condition that "the extra 40 SF of signage is only allowed when one tenant is occupying the two spaces."

Chairman Dunn 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 nor threaten the public health, safety or welfare.
- (2) The spirit of the ordinance would be observed: because the essential character of the neighborhood would not be altered.
- (3) Substantial justice would be done: because the loss to the applicant would outweigh any gain to the general 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 is 300 yards back from Route 102 and given the property location inside the plaza. The proposed use is a reasonable one.

**J. Tirabassi made a motion in CASE NO. 12/18/19-1 to grant the variance request from LZO 7.6.D.3.B.I to allow an 80 SF wall sign where only 40 SF are allowed, Four Orchard View Drive (Units 20-21), Map 7 Lot 42-2, Zoned C-I, Robert Carrier (Applicant) and Vernco Co., LLC (Owner) with the conditions:**

- 1. The extra 40 SF of signage is only allowed when the two spaces are occupied by one tenant for Units 20-21.**
- 2. Lights on the sign to be on only during normal business hours.**

**B. O'Brien seconded the motion.**

The motion was granted, 4-1-0. The applicant's request for a variance was granted.

**B. CASE NO. 12/18/19-2: Request for three variances from LZO 4.3.3.B.1: (1) to allow only 28.8% amount of green space where 33% is required; (2) to allow only 15 feet of green perimeter along a public right-of-way where 30 feet is required; and (3) to allow only 0 feet of green perimeter where 15 feet is required, 33 Londonderry Road, Map 10 Lot 87, Zoned C-II, 33 Londonderry, LLC (Owner) and Advance Machine Technologies (Applicant)**

J. Tirabassi read the case into the record noting the previous zoning case. Michael Malynowski, Senior Project Manager, from Allen & Major Associates, 400 Harvey Road, NH, and Robert Cook from Advanced Machine Technologies, 33 Londonderry Road, Unit 13, Londonderry, NH, addressed the Board. M. Malynowski reviewed the plan (Exhibit 1) with the Board. He explained that the first variance request is partly due to land taking for widening the 1-93 corridor by the New Hampshire Department of Transportation (NHDOT). He pointed out that the land taking reduced the overall parcel along with green space the site had. He said the original plan had a green space area of 39.4%, which exceeds the 33% required by the Town, but after the land taking the green space area went down to 30.8%. He said that as part of the proposal they are increasing the pavement along the front to allow for better access that reduces the green space area to 28.8%. He told the Board that the second variance is for a 0 setback for green space perimeter, which is also related to the land taking from NHDOT. He commented that the right-of-way along Londonderry Road is excessively wide for some unknown reason and the existing green space from the edge of pavement is anywhere between 60 feet and 75 feet. He said that a typical roadway in Londonderry has 43 feet between the edge of pavement and green space. Chairman Dunn clarified that the edge of pavement is not a marker for green space. M. Malynowski said that he understood that, but wanted to illustrate that there is an excessive amount of green space at this property versus a normal roadway situation in Londonderry. S. Brunelle asked why the applicant is looking to reduce the green space. M. Malynowski said to increase parking for the office and general public in the front versus the back, which is used for deliveries. M. Feig asked if they lost parking with the NHDOT land taking. M. Malynowski responded that they did not. B. O'Brien asked for a before and after picture of the land taking if the applicant had one. M. Malynowski reviewed a picture with the Board.

He then reviewed the five criteria for the granting of the variance to allow 28.8% amount of green space where 33% is required:

- (1) The granting of the variance is not contrary to the public interest: because the essential character of the neighborhood would not be altered since the property has historically been used for commercial operations, since the early 80's.

- (2) The spirit of the ordinance is observed: because the preexisting green space of 39.4% exceeded the required open space and the proposed decrease to account for safer vehicle movements and public convenient parking at the business entrances, the green space would have still exceeded the required 37.4% prior to the land taking by NHDOT.
- (3) Substantial justice is done: because the general public does not stand to benefit from a denial of this variance request and the loss to the applicant would be greater.
- (4) Values of surrounding properties are not diminished: because it would not alter the essential character of the neighborhood as it is commercial neighborhood.
- (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 its irregular shape, reduced area by land taking by NHDOT, topography and existing pavement limits. He stated that the proposed use is a reasonable one.

Chairman Dunn asked for questions from the Board. Chairman Dunn asked how much green space square footage is being reduced in the front. M. Malynowski responded that 2,400 SF, which is about 270 feet. Chairman Dunn asked what the building is being used for currently. R. Cook told the Board that there is a mix of tenants with several auto repair shops, kitchen design studio, machine shop and foreign auto body rebuild. Chairman Dunn asked if the applicant had enough parking spaces. R. Cook told him that he believes they do not have the adequate amount of parking spaces. M. Feig asked if green space can be added at any other location. M. Malynowski said that the applicant would have to cut parking given the land taking by the NHDOT. B. O'Brien asked if the land taking by NHDOT caused them to need a variance for the percentage of green space. M. Malynowski responded that was correct.

Chairman Dunn asked for public input.

Denise Littlefield, 23 Londonderry Road, a trustee representing Labonte Trust, addressed the Board. D. Littlefield said that her property has suffered from the NHDOT land taking with flooding, and she is concerned about her neighbor taking away more green space, which she believes would create more problems. She expressed her concern regarding significant encroachment in the past from the applicant onto her property. She commented that she believes the applicant will be on her property constantly. She told the Board that she was on site this week and there was a loader on her property. She said that she has spoken with the applicant's lawyer to get the loader moved and the response was that they were paving and would remove it after the paving was completed. She told the Board that the pavement is up to her boundary line and she is going to have to hire a surveyor to make sure that the applicant did not encroach onto her property. R. Cook responded that the pavement has been the same since 1982 with no changes along with a plan signed by the Planning Board in 1993. M. Malynowski told the Board that the only pavement they are adding is in the front, not along the perimeter. Chairman Dunn asked if the applicant has done any new paving. M. Malynowski stated the applicant has not done any new paving.

Chairman Dunn asked if the applicant has seen an increase in flooding since the land taking by NHDOT. R. Cook told him that they have. M. Malynowski added that the applicant is not afforded any other improvements to the property without a variance because the land taking made the site nonconforming for green space. Chairman Dunn said that he is okay with the green space percentage of 30.8% that happened with the land taking but not with the applicant further trying to reduce the green space down to 28.8%.

The Board closed public input and began its deliberation on to allow only 28.8% amount of green space where 33% is required:

- (1) The variance would not be contrary to the public interest: because it would not change the essential character of the neighborhood.
- (2) The spirit of the ordinance would be observed: because it would not threaten the health, safety or welfare of the general public or 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 is irregular in size, the land taking by the NHDOT and existing topography. The proposed use is a reasonable one.

**J. Tirabassi made a motion CASE NO. 12/18/19-2 to grant the variance request from LZO 4.3.3.B.1 to allow only 28.8% amount of green space where 33% is required**

**M. Feig seconded the motion.**

**The motion was granted, 4-1-0. The applicant's request for a variance was granted.**

M. Malynowski reviewed the five points of law for requesting 15 feet of green perimeter along a public right-of-way where 30 feet is required as follows:

- (1) The granting of the variance is not contrary to the public interest: because the essential character of the neighborhood would not change, as it has historically been used for commercial business. The NHDOT land taking measures along Route 93 directly adjacent to the subject parcel reducing the overall parcel area, as well as adjusting the property line closer to the existing pavement, as such, reducing the buffer.



- (2) The spirit of the ordinance is observed: because the essential character would not be altered and the applicant will be allowed to maintain the preexisting buffer, which was reduced through a NHDOT land taking.
- (3) Substantial justice is done: because the loss to the applicant would outweigh any gain to the general public, as the applicant would be required to remove existing pavement reducing vehicular circulation capacity.
- (4) Values of surrounding properties are not diminished: because it would not alter the essential character of the neighborhood as it is commercial neighborhood.
- (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 due to the irregular shape of the parcel, reduced area by land taking by NHDOT, topography and existing pavement limits. He stated that the proposed use is a reasonable one.

Chairman Dunn asked for questions from the Board. B. O'Brien asked how far the pavement is along from the applicant's property line to the road along Londonderry Road. M. Malynowski said between 23 feet to 28 feet. B. O'Brien asked how close the pavement would be to the road if the variance is granted. M. Malynowski stated 15 feet. Chairman Dunn asked about the plan that was signed by the Planning Board from 1993, stating that in his opinion, the pavement was already in breach of the regulations. M. Malynowski said that when they performed the survey boundary there was a record plan that was found for the neighboring property in 1993 and that is the plan he is referencing. Chairman Dunn said that regardless of what plan, the existing pavement is in breach of the 30 foot setback on Londonderry Road, because they measured from the road instead of the property line. R. Cook said the building was built in 1982.

Chairman Dunn asked for public input and there was none.

The Board closed public input and began its deliberation on to allow only 15 feet of green perimeter along a public right-of-way where 30 feet is required:

- (1) The variance would be contrary to the public interest: because it would alter the essential character of the neighborhood.
- (2) The spirit of the ordinance would not be observed: because it would threaten the health, safety or welfare of the general public traveling along the roadway.
- (3) Substantial justice would not be done: because given the safety concerns the loss the public outweighs any gain by the applicant.
- (4) Values of the property would not be diminished: because it would not alter the essential character of the neighborhood.

(5) There is a 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 setback is there for safety and should be followed. The proposed use is a reasonable one.

**J. Tirabassi made a motion CASE NO. 12/18/19-2 to deny the request for a variance from LZO 4.3.3.B.1 to allow only 15 feet of green perimeter along a public right-of-way where 30 feet is required.**

**B. O'Brien seconded the motion.**

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

Chairman Dunn discussed what the State's involvement is. S. Brunelle noted that the land taking by NHDOT is recorded. M. Malynowski reviewed the five points of law as to allow only 0 feet of green perimeter where 15 feet is required:

- (1) The granting of the variance is not contrary to the public interest: because the essential character of the neighborhood would not change, as it has historically been used for commercial business. The NHDOT land taking measures along Route 93 directly adjacent to the subject parcel reducing the overall parcel area, as well as adjusting the property line closer to the existing pavement, as such, reducing the buffer.
- (2) The spirit of the ordinance is observed: because the essential character would not be altered and the applicant will be allowed to maintain the preexisting buffer, which was reduced through a NHDOT land taking.
- (3) Substantial justice is done: because the loss to the applicant would outweigh any gain to the general public, as the applicant would be required to remove existing pavement reducing vehicular circulation capacity.
- (4) Values of surrounding properties are not diminished: because it would not alter the essential character of the neighborhood as it is commercial neighborhood.
- (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 due to the irregular shape of the parcel, reduced area by land taking by NHDOT, topography and existing pavement limits. He stated that the proposed use is a reasonable one.

Chairman Dunn asked for questions from the Board. Chairman Dunn asked for clarification on the actual measurement is for green space on every side of the applicant's property. M. Malynowski reviewed the plan with the Board. Chairman Dunn said that it is not clear to him what the actual borders are now and noted that they are not in compliance and have not been for years now. He asked if the Board wanted



more clarification for this request. S. Brunelle stated that they are in compliance on the northerly side and wondered why they asked for 0 feet. L. Gandia said that if the Board grants a continuance, this would allow the applicant do perform some more research and gather more inofmration. M. Malynowski commented that the applicant would be in favor of continuance until the next meeting in order to provide the exact dimensions for the additional boundaries that specify the green space on the property.

**J. Tirabassi made a motion CASE NO. 12/18/19-2 to continue the request for a variance from LZO 4.3.3.B.1 to allow only 0 feet of green perimeter where 15 feet is required until January 15, 2020**

**M. Feig seconded the motion.**

**The motion was granted, 5-0-0. The applicant's request for a variance was continued until January 15, 2020.**

**II. Other business:**

**Adjournment:**

**S. Brunelle made a motion to adjourn at 8:55 p.m.**

**M. Feig seconded the motion.**

**The motion was granted, 5-0-0. The meeting adjourned at 8:55 p.m.**

RESPECTFULLY SUBMITTED,



CLERK

TYPED AND TRANSCRIBED BY Beth Morrison, Recording Secretary.

**APPROVED (X)** WITH A MOTION MADE BY Mitch Feig, SECONDED BY Breida O'Neil 5-0-0.

Exhibit A

Case# 12/18/19-1

12/18/19





## LIST OF VARIANCES

- [illegible]

## LIST OF PREVIOUS APPROVALS

**PLANNING BOARD**

## PARKING SUMMARY

[illegible]

ADA SPACES REQUIRED:  
75 TO 100 PARKING SPACES PROVIDED, 4 ADA PARKING SPACES PROVIDED, 1 SPACE 99 INCH VAN ACCESSIBLE

ADA SPACES PROVIDED:  
TOTAL WITH 1 BAY VAN ACCESSIBLE

## ZONING SUMMARY TABLE

ITEM	REPRESENTATIVE	EXTENT	INCIDENTS
MARIJUANA TYPE "A" STRAIN	60 FEET	92.2 FT	602.3 FT
MARIJUANA TYPE "B" STRAIN	60 FEET	41.7 FT	41.7 FT
MARIJUANA TYPE "C" STRAIN	50 FEET	25.5 FT	35.5 FT
MARIJUANA TYPE "D" STRAIN	50 FEET	2.60 ACRES	4.60 ACRES
MARIJUANA TYPE "E" STRAIN	50 FEET	80.7 FT	80.7 FT
MARIJUANA TYPE "F" STRAIN	50 FEET	4.50 FT	50 FT
MARIJUANA TYPE "G" STRAIN	50 FEET	18.40	18.40
MARIJUANA TYPE "H" STRAIN	50 FEET	30.80	30.80
MARIJUANA TYPE "I" STRAIN	50 FEET	2.60 FT	15 FT
MARIJUANA TYPE "J" STRAIN	50 FEET	0.50	0.50
MARIJUANA TYPE "K" STRAIN	50 FEET	0.50	0.50

• [EXISTING NON-COMPARING CONDITION]

### GENERAL NOTES

- [illegible]

### AREA OF TAKING

INTERSTATE 93 NORTHBOUND

NHDOT  
DRAIN  
BASIN

PROFESSIONAL ENGINEER FOR  
ALLEN & MAJOR ASSOCIATES, INC.

[illegible]

APPLICANT: ADVANCED MACHINE TECHNOLOGIES  
33 LONDONDERRY RD, UNIT 13  
LONDONDERRY, NH 03053

PROJECT:  
PARKING LOT UPGRADES  
(MAP 10, LOT 87)  
33 LONDONDERRY ROAD  
LONDONDERRY, NH

PROJECT NO.	2703-01	DATE:	11-18-19
SCALE:	1" = 30'	DWG. NAME: (2703)_Spec1.dwg	
DESIGNED BY:	MM	CHECKED BY:	MM

1002-AM-10-014



ALLEN & MAJOR  
ASSOCIATES, INC.

civil engineering • land surveying  
environmental consulting • landscape architecture  
a s s o c i a t e s p c a  
400 HARVEY ROAD  
MANCHESTER, NH 03103  
TEL: (603) 527-3500  
FAX: (603) 528-2500

100°C/120 (cm) : VM#

WOBURN, MA • LAKEVILLE, MA • MANCHESTER, NH

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DRAWING TITLE	SHEET NO.
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VARIANCE OF AN  
V1

VARIANCE PLAN

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1



Exhibit A

Case# 12/18/19-1

12/18/19





