

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

**MINUTES FROM 02/17/21 MEETING**

The meeting was called to order at 7:00 p.m. Members introduced themselves. The following members were present: Jacqueline Benard, Vice Chair; Brendan O'Brien, member; Suzanne Brunelle, member; Bill Berardino, member; Mitch Feig, alternate member; Irene Macarelli, alternate member; and David Armstrong, alternate member. Also, participating was Laura Gandia, Associate Planner; and Beth Morrison, Recording Secretary.

**I. APPROVAL OF MINUTES**

**S. Brunelle a motion to accept the January 20, 2021, minutes as presented.**

**The motion was seconded by M. Feig.**

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

**II. REPORT BY TOWN COUNCIL – D. Paul informed the Board that there was nothing to report this evening.**

**III. REGIONAL IMPACT DETERMINATIONS:** Associate Planner Gandia informed the Board that she had one project for their consideration this evening.

1. CASE NO. 02/17/2021-1: Request for two variances: (1) LZO 7.6.D.3.B.i for two wall signs where only one is allowed; and (2) LZO 7.6.D.3.B.i to allow 65.6 SF of signage where only 40 SF is allowed, 42 Nashua Road & Michels Way, Map 7 Lot 68-1, Zoned C-I, NH Realty Trust (Owner) and T-Mobile (Applicant)

Associate Planner Gandia recommended the Board find that this project is not a development of regional impact as it does not meet the criteria set forth by the Southern New Hampshire Regional Planning Commission.

**S. Brunelle made a motion to find this project is not of regional impact.**

**M. Feig seconded the motion.**

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

**IV. PUBLIC HEARING OF CASES**

**A. CASE NO. 02/17/2021-1: Request for two variances: (1) LZO 7.6.D.3.B.i for two wall signs where only one is allowed; and (2) LZO 7.6.D.3.B.i to allow 65.6 SF of signage where only 40 SF is allowed, 42 Nashua Road & Michels Way, Map 7 Lot 68-1, Zoned C-I, NH Realty**

## Trust (Owner) and T-Mobile (Applicant)

Vice Chair Benard appointed M. Feig as a full voting member for this case. B. Berardino informed the Board that he knows the person presenting the case this evening. Vice Chair Benard asked if he could be impartial with no preconceived ideas regarding this case. B. Berardino replied that he could. Vice Chair Benard asked if the rest of the Board had a problem with B. Berardino voting on this case. The Board's consensus was they did not have a problem with B. Berardino voting. B. O'Brien read the case into the record noting the previous zoning. Robyn Casey, representative from KC signs, 26 Pine Street, Londonderry, NH addressed the Board. R. Casey presented the Board with a supplemental package, Exhibit A, which is attached hereto.

She addressed the five criteria for the variance request from LZO 7.6.D.3.B.i for two wall signs where only one is allowed:

- (1) The granting of the variance is not contrary to the public interest: because the additional sign is for the purpose of improving the traveling's public ability to locate the business given its location being blocked by another building. She added that by allowing the variance, there will be less confused drivers and safer access and it would not change the essential character of the neighborhood.
- (2) The spirit of the ordinance is observed: because the proposed signage is the minimal amount needed to safely direct the travelling public to the store's location.
- (3) Substantial justice is done: because the loss to the applicant would outweigh any gain to the public.
- (4) Values of surrounding properties are not diminished: because the granting of the variance would only benefit the surrounding properties as it is a business that compliments the area and brings in business, increasing the property tax base.
- (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 there is a lack of visibility to the premises as a result of an abutting blocking building the sight line, which creates a hardship both from a viability standpoint and safety hardship. She said that the proposed use is a reasonable one.

Vice Chair Benard asked the Board for questions. S. Brunelle asked for clarification on where the signs would be. R. Casey reviewed where the signs would be on the screen with the Board. S. Brunelle asked if T-Mobile was renting out half of the building. R. Casey replied that was correct. B. Berardino asked if the sign is plastic and would be illuminated. R. Casey responded that it is plastic and would be illuminated. D. Armstrong asked if the sign will have a background color instead of just being white. R. Casey replied that she believed it would be, but stated that she does not make the signs. D. Armstrong commented that most of the signs in the area are without a background color and asked if just T-Mobile could be in color and the background could be white. R. Casey stated that she suggested that to T-Mobile, but this is what they would like.

Vice Chair asked for public input.

Deb Paul, 118 Hardy Road, addressed the Board with questions. D. Paul asked if the applicant would be looking for a third sign in the future, like Convenient MD. She commented that she would like to see T-Mobile in pink instead of having the pink background. R. Casey replied that they would not be asking for a third one. She stated that she did suggest taking the pink background out, but noted that is a decision for T-Mobile to make.

Vice Chair brought the discussion back to the Board. She noted that the sign type for the storefront and rear states the color will be "magenta," but the color is unknown and asked for clarification. R. Casey read from the package noting that it states magenta on hers under color pallet. S. Brunelle mentioned that the urgent care looks magenta to her, but T-Mobile looks pink. Vice Chair Benard asked if R. Casey had the authorization to approve not having the sign exactly as presented for the colors, because if the Board granted the variance for two signs, but changed the colors of the sign, T-Mobile cannot come back to request another variance for this. R. Casey stated that she would have to ask T-Mobile. Vice Chair Benard suggested the application be continued, as more information is needed. She added that having a T-Mobile representative come to the next meeting would be beneficial as well. She asked for the Board's consensus on this. The Board was in consensus to continue the case to next month as more information is needed.

**B. O'Brien made a motion in CASE NO. 02/17/2021-1 to continue the request for two variances: (1) LZO 7.6.D.3.B.i for two wall signs where only one is allowed; and (2) LZO 7.6.D.3.B.i to allow 65.6 SF of signage where only 40 SF is allowed, 42 Nashua Road & Michels Way, Map 7 Lot 68-1, Zoned C-I, NH Realty Trust (Owner) and T-Mobile (Applicant) until March 17, 2021.**

**M. Feig seconded the motion.**

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

VI. Other Business

**Adjournment:**

**M. Feig made a motion to adjourn at 7:32 p.m. B. Berardino seconded the motion.**

**The motion was granted, 5-0-0. The meeting adjourned at 7:32 p.m.**

RESPECTFULLY SUBMITTED

  
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CLERK

TYPED AND TRANSCRIBED BY Beth Morrison, Recording Secretary.

**APPROVED (X)** WITH A MOTION MADE BY B. O'Brien, SECONDED BY B. Peradino, S-O-O.

## Two Wall Signs

1. The requested variance is not contrary to the public interest: As stated in Section 7.1 of the Sign Ordinance its purpose is to “protect the health, safety, and welfare of the public.” The additional sign is for the purpose of improving the traveling public’s ability to locate the business given its location being blocked by another building rendering it not visible from the right of way. The result is less confused drivers and therefore safer access. Visitors will be more able to identify their destination. A second sign would not change the essential character of the neighborhood.
2. The spirit of the Ordinance has been observed: Again, as stated in Section 7.1 of the Sign Ordinance its purpose is to “protect the health, safety, and welfare of the public.” “control visual clutter and encourage high professional standards in sign design and display” “Retain the Town’s ability to attract and encourage economic development and growth” The proposed signing is similar to other similarly situated commercial properties in Londonderry, the proposed signage is the minimal amount needed to safely direct the traveling public to the premises given the nature of the building as permitted by Londonderry considering the required access routes and abutting properties as developed and permitted by the Town.
3. Substantial justice is done: The granting of the requested variance would ensure substantial justice as it would permit the safe access to the subject property while conforming to the intent of the ordinance in a similar fashion as has been permitted throughout the Town.
4. The value of surrounding properties are not diminished: Safe use of the subject property requires additional signage given obstructions previously approved by the Town and the required access routes. The proposed use only benefits the surrounding properties as it is a business that compliments the area and brings in business, increasing the property tax base. The one additional sign promotes safe access to the premises. The proposed location of the signs would not add clutter to the landscape as they are to be affixed to the building.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:
  - A. I. No fair and substantial relationship: There is no fair and substantial relationship between the general public purpose of the ordinance and its application in the instant matter. The lack of visibility to the premises as a result of an abutting building blocking the sight line to the premises creates a hardship both from a viability standpoint and safety hardship. The commercial use of the area, by nature requires visibility and the abutting buildings have been permitted to block the sight lines to the subject premises. The zoning of the subject area promotes business and business requires customers can find the business safely. When you have the public driving around and having a difficult time locating a business it creates an unsafe situation where drivers are focused more on searching for a business and less on traffic. The signs do not add clutter to the landscape given their mounting locations and the existing landscape. The proposed signs instead promote safe and informed access in a manner consistent within the area.



II. The proposed use is a reasonable one: T-Mobile is a reasonable use of the premises given the zoning and surrounding businesses. T-mobiles' anticipated walk in volume is reasonable for the area and the need for clear and appropriate signing is reasonable for the area. Most business uses in the area rely on visibility and safe access. Granting of the easement would help alleviate these hardships.

B. T-mobiles' use of the property is reasonable for the area and the poor visibility of the premises and related safety concerns with access are due solely to surrounding developments making the subject premises unique as to the noted hardships.

#### Total square footage of signs

1. The requested variance is not contrary to the public interest: As stated in Section 7.1 of the Sign Ordinance its purpose is to "protect the health, safety, and welfare of the public." The additional sign is for the purpose of improving the traveling public's ability to locate the business given its location being blocked by another building rendering it not visible from the right of way. The result is less confused drivers and therefore safer access. The addition of a second sign requires the 40SF limit to be exceeded by 25.6SF each sign being approximately 32.8SF.
2. The spirit of the Ordinance has been observed: Again, as stated in Section 7.1 of the Sign Ordinance its purpose is to "protect the health, safety, and welfare of the public." "control visual clutter and encourage high professional standards in sign design and display" "Retain the Town's ability to attract and encourage economic development and growth" The proposed signing is similar in size to other similarly situated commercial properties in Londonderry, the proposed signage is the minimal total square footage to reasonably address the visibility hardship in a safe manner considering the required access routes and abutting properties as developed and permitted by the Town.
3. Substantial justice is done: The granting of the requested variance would ensure substantial justice as it would permit the proper signage for the property in light of its hardships while conforming to the intent of the ordinance in a similar fashion as has been permitted elsewhere in the Town.
4. The value of surrounding properties are not diminished: Safe use of the subject property requires additional signage given obstructions previously approved by the Town and the required access routes. The proposed square footage spread over two signs benefits the surrounding properties as it is a business that compliments the area and brings in business, increasing the property tax base. The 26.6 additional SF is for the purpose of addressing the visibility hardship unique to the property. Several other businesses in Town have been permitted to exceed the SF limit for one sign by more than requested here for two signs.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:

A. I. No fair and substantial relationship: Maintaining the 40 SF limit when installing two signs is not fair under the circumstances. The lack of visibility to the premises as a result of an abutting building blocking the sight line to the premises creates a hardship both from a viability standpoint and safety hardship. Each of the two requested signs are individually less square footage than the max allowable. It is only when they are added together that they exceed the max. SF. The commercial uses in the area, has several signs that exceed the 40 SF limit. The proposed signs are in line with the zoning of the subject area promoting business.

II. The proposed use is a reasonable one: T-Mobile is a reasonable use of the premises given the zoning and surrounding businesses. T-mobiles' anticipated walk in volume is reasonable for the area and the need for clear and appropriate signing is reasonable for the area. Most business uses in the area rely on visibility and safe access by utilizing larger signs than proposed here. Granting of the easement would help alleviate applicant's hardships utilizing signs that fit the neighborhood.

B. T-mobiles' use of the property is reasonable for the area and the proposed signs are appropriate in size to address the visibility and access concerns due solely to surrounding developments making the subject premises unique as to the noted hardships.

#### BOTH VARIANCES

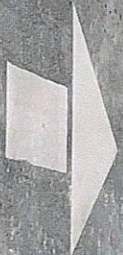
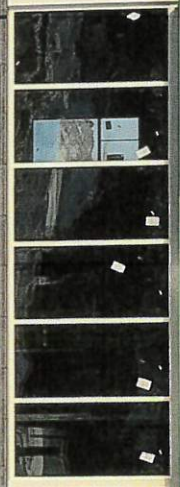
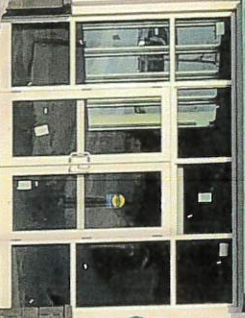
The requested variances are not use variances but are rather dimensional variances. Applying the ordinance strictly to the subject premises result in unnecessary hardships due to the location of the subject premises and its proximity to surrounding properties as they have been permitted to be developed. The requested variances are reasonable and accepted practices to address the hardships noted.



INMOBILE

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42 C



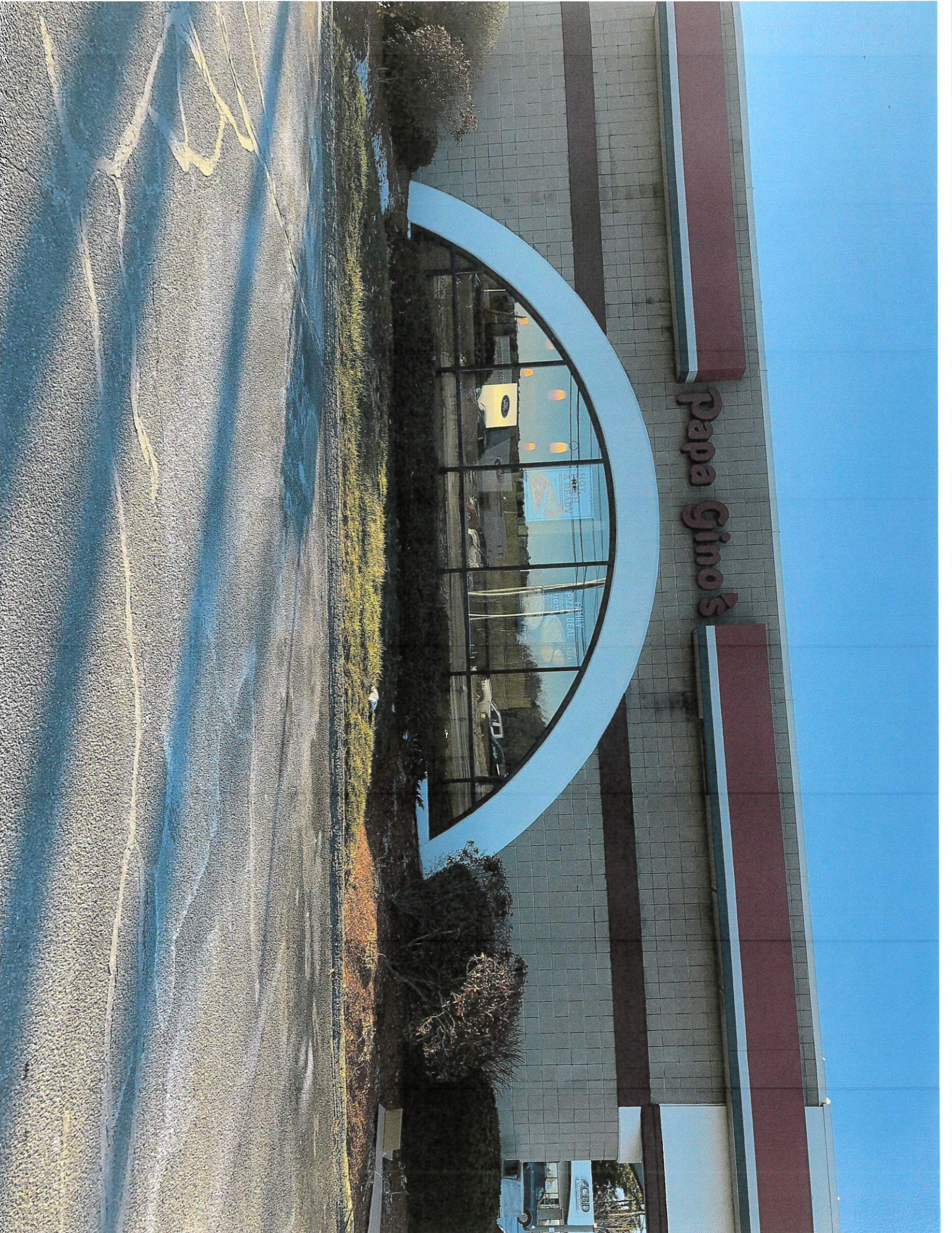
















**Citizens**

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RESERVED  
PARKING  
ADA

RESERVED  
PARKING  
ADA









Cumberland MD

Cumberland MD

← Drive-Up  
with  
Parking →

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