

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

MINUTES FROM 04/21/21 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; Mitch Feig, alternate member; Irene Macarelli, alternate member and David Armstrong, alternate member. Also, participating was Laura Gandia, Associate Planner; Nick Codner, Chief Building Inspector; and Beth Morrison, Recording Secretary. Vice Chair Benard made M. Feig and I. Macarelli full voting member this evening.

I. APPROVAL OF MINUTES

S. Brunelle made a motion to accept the March 17, 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 she brought up the chicken ordinance and sign ordinance with the Town Council and Planning Board, as these come up frequently.

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

1. CASE NO. 04/21/2021-1: Request for a variance from LZO 4.3.3.B.2 to reduce the landscaping buffer zone between a commercial and residential zoning district from 50 feet to 15 feet, Four Enterprise Drive, Map 15 Lot 62-1, Zoned C-II, Enterprise Drive Recovery, LLC (Owner & Applicant)
2. CASE NO. 04/21/2021-2: Request for a variance from LZO 4.2.1.3.C.2 to encroach five feet into the 15 foot side setback, 22 Griffin Road, Map 1 Lot 001-26-3, Zoned AR-1, William & Katelyn Nette (Owners & Applicants)
3. CASE NO. 04/21/2021-3: Request for a variance from LZO 4.2.1.3.B.1 to allow construction of a single family dwelling on a lot with no frontage on a Class V or better road, 22 Gerry Lane, Map 18 Lot 5, Zoned AR-1, Vine St Rentals, LLC (Owner & Applicant)

B. O'Brien made a motion that none of these projects are of regional impact.

The motion was seconded by M. Feig.

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

IV. PUBLIC HEARING OF CASES

A. CASE NO. 04/21/2021-1: Request for a variance from LZO 4.3.3.B.2 to reduce the landscaping buffer zone between a commercial and residential zoning district from 50 feet to 15 feet, Four Enterprise Drive, Map 15 Lot 62-1, Zoned C-II, Enterprise Drive Recovery, LLC (Owner & Applicant)

B. O'Brien read the case into the record. Jason Lopez, P.E., from Keach-Nordstrom Associates, Inc., 10 Commerce Park North, Suite 3, Bedford, NH, and Brian Bauchman, owner of Four Enterprise Drive, addressed the Board. J. Lopez told the Board that the parcel is located at Four Enterprise Drive, is 3.6 acres and in the C-II zoning district. He reviewed the current proposal, which is for a 3,900 SF garage and impound lot for the owner's business that he has across the street. He gave the Board some background information that back in 2016 there was an approved site plan for a 6,000 SF building on the same property, but this approval expired due to no construction. He stated that the owner bought the property with the knowledge of the approved 2016 site plan, knowing he could modify that plan to meet his needs. He explained that they modified the site plan and submitted this to the Planning Department where it became apparent during the review process that the variance was never obtained with the previous site plan, and that is why they are here before the Board this evening. He noted that they are seeking a reduction in the 50-foot vegetative buffer setback between residential and commercial down to 15-feet. He asked L. Gandia to pull up a picture of the GIS tax map explaining that the Rail Trail borders the back of the property in question. He said that the Rail Trail is an AR-1 zone. He noted that there is an Industrial zone to the north, more AR-1 and also C-II zone surrounding the property. He pointed out that the owner, Brian Bauchman, has another property across the street, where he obtained the same variance in 2010. He mentioned that they have gone before the Conservation Commission and the Heritage Commission stating they are in support of the variance. He said that both Commission's would like more plantings on the site. He pointed out that they did reduce the building size from 6,000 SF to 3,900 SF and they will be keeping vehicles parked closer to the Rail Trail, which is further away from the wetlands. He stated that there is a wetland on the southerly portion of the property with two wetland setbacks.

He then read the criteria for granting the variance:

- (1) The granting of the variance is not contrary to the public interest: because it does not threaten the health, safety or welfare of the general community or change the essential character of the neighborhood.
- (2) The spirit of the ordinance is observed: because the subject property is in the C-II zoning district, in which the proposed use of a garage with vehicle storage and impound lot is a permitted use. He went on to note that the Rail Trail is a passive recreational use, not residential homes, therefore one can suggest the spirit of the ordinance is observed.
- (3) Substantial justice is done: because the proposed use of the property is similar to the existing abutting uses, such as Donovan Springs and Bauchman's Towing.
- (4) Values of surrounding properties are not diminished: because it will not have any adverse effect on any neighboring properties.

- (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 in that it abuts a portion of the Rail Trail, which is recognized as a residential zone and used for passive recreational use and not capable of placement of residential homes. He said therefore, the application of the ordinance to this property creates an unnecessary hardship not shared by many other properties in the area. He said that the proposed use is a reasonable one.

Vice Chair Benard asked for questions from the Board. D. Armstrong asked if the reduction of the 50-foot buffer at the top of the building is for a parking lot. J. Lopez replied that was correct and told him it was going to be an impound lot storing crash vehicles and non-motorized equipment that will be fenced in. D. Armstrong asked for clarification on non-motorized equipment. J. Lopez responded that box trailers or tractor trailers would be classified as non-motorized equipment. B. O'Brien asked if the only residential buffer was along the Rail Trail. J. Lopez replied that was correct. M. Feig asked what would happen if the owner tried to accommodate the buffer. J. Lopez replied that it would impede the turning radius of his equipment getting into and out of the garage. J. Benard asked how many cars or trucks would be stored in the storage area. J. Lopez replied that they have an area specified for storage spaces for crash cars that is 20 feet by 91 feet and asked the owner for more clarification. Brian Bauchman, owner, said that it would be about 20 vehicles and six trailers or so. J. Benard asked if the back of the lot where the garage doors open is used for turn around. J. Lopez replied that it would be used for a fair amount of turn around as well as storage of non-motorized equipment. J. Benard asked what the eight foot by twenty foot ramp is at the gated entrance on Enterprise Drive. J. Lopez replied that is a ramp for ADA accessibility, noting it is a misplaced label. J. Benard asked how many employees there would be. J. Lopez responded that most employees operate in the building across the street and this is just for storage, so employees would be in and out dropping off vehicles. J. Benard asked if there are regular operating hours or only when called to pick up vehicles. B. Bauchman replied that he is open twenty four hours, noting it is mostly on-call when the Police Department calls them, but they do not release vehicles to the public at night, only during the day. D. Armstrong asked if the vegetation would be planted where there is a berm by the buffer. J. Lopez replied that was correct.

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

Vice Chair brought the discussion back to the Board and began deliberation:

- (1) The granting of the variance is not contrary to the public interest: because it does not change the essential character of the neighborhood.
- (2) The spirit of the ordinance is observed: because it will not change the essential character of the neighborhood nor threaten the health, safety or welfare of the general public.
- (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 it will not have any adverse effect on any neighboring 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 property is unique as it is a commercial property surrounding by residential and encumbered by wetlands on one side. The proposed use is a reasonable one.

S. Brunelle made a motion in CASE NO. 04/21/2021-1 to grant the request for a variance from LZO 4.3.3.B.2 to reduce the landscaping buffer zone between a commercial and residential zoning district from 50 feet to 15 feet, Four Enterprise Drive, Map 15 Lot 62-1, Zoned C-II, Enterprise Drive Recovery, LLC (Owner & Applicant) with the following conditions:

- 1. The applicant fulfill the requests of the Heritage Commission as outlined in Exhibit 1.**
- 2. The applicant fulfill the requests of the Conservation Commission as outlined in Exhibit 2 for additional plantings as described in October 27, 2020, Conservation Commission meeting minutes line 66-71.**

M. Feig seconded the motion.

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

B. CASE NO. 04/21/2021-2: Request for a variance from LZO 4.2.1.3.C.2 to encroach five feet into the 15 foot side setback, 22 Griffin Road, Map 1 Lot 001-26-3, Zoned AR-1, William & Katelyn Nette (Owners & Applicants)

B. O'Brien read the case into the record noting there is no prior zoning. William Nette, owner of 22 Griffin Road, addressed the Board. W. Nette started off by reviewing Exhibit B from his submittal package, which is attached hereto. He explained that he is seeking a variance to build a shed that is 12-feet by 18-feet, ten feet from the side property line where 15-feet is required. He pointed out that he is requesting the variance due to the shape and slope of his property, the leach field location in the backyard and neighbors concerns of shed placement too close to their side yard. He noted that the shed will be professionally installed by Reeds Ferry. He said that the shed will store lawn maintenance equipment, garden equipment, miscellaneous equipment and a snow blower. He explained that half of his backyard is wooded and narrows until both sides of the backyard come together. He went on to state that water tends to accumulate during periods of heavy rain there. He added that he has been advised to not place the shed in his backyard due to water concerns. He commented that if he placed the shed in his backyard along the northerly property line, his neighbor at 20 Griffin Road is concerned his deck would overlook the back of the shed detracting from his property value. He said that if he were to place it on the southerly side of his backyard it would impede drainage. He mentioned that his leach field is in the middle of his backyard and therefore, cannot place his shed there. He mentioned that the front yard would not work either, which lead him to the left of his home.

He then read the criteria for granting the variance:

- (1) The granting of the variance is not contrary to the public interest: because it does not threaten the health, safety or welfare of the general community or change the essential character of the neighborhood.
- (2) The spirit of the ordinance is observed: because it will not change the essential character of the neighborhood.
- (3) Substantial justice is done: because the loss to the applicant would not outweigh any gain to the public.
- (4) Values of surrounding properties are not diminished: because the shed will be visually appealing and match the existing home.
- (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 the shape of the property being long and narrow, the leach field is located in the center of the backyard, and the property slopes in the back with narrow pathways for water to travel along both sides of the home. He said that the proposed use is a reasonable one.

Vice Chair Benard asked for questions from the Board. M. Feig asked if he would need a variance if he placed the shed where his neighbor does not want to see it. W. Nette replied that he believes he would need a variance to place the shed there. M. Feig asked how easy it is to move a generator. W. Nette responded that it is not easy to move as it is installed with a gas line.

Vice Chair Benard asked for public input. B. O'Brien read letters of support for the variance (Exhibit 3) into the record, which are attached hereto.

Vice Chair Benard brought the discussion back to the Board and began deliberation:

- (1) The granting of the variance is not contrary to the public interest: because it does not change the essential character of the neighborhood nor threaten the health, safety or welfare of the general community.
- (2) The spirit of the ordinance is observed: because it will not change the essential character of the neighborhood.
- (3) Substantial justice is done: because the loss to the applicant would not outweigh any gain to the public.
- (4) Values of surrounding properties are not diminished: because it will not have any adverse effect on any neighboring 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 property is unique given the shape of the property, location of leach field and slope of the property. The proposed use is a reasonable one.

S. Brunelle made a motion in CASE NO. 04/21/2021-2 to grant the request for a variance from LZO 4.2.1.3.C.2 to encroach five feet into the 15 foot side setback, 22 Griffin Road, Map 1 Lot 001-26-3, Zoned AR-1, William & Katelyn Nette (Owners & Applicants) with the condition that the shed shall be no larger than 12 feet by 18 feet as presented in Exhibit B

I. Macarelli seconded the motion.

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

C. CASE NO. 04/21/2021-3: Request for a variance from LZO 4.2.1.3.B.1 to allow construction of a single family dwelling on a lot with no frontage on a Class V or better road, 22 Gerry Lane, Map 18 Lot 5, Zoned AR-1, Vine St Rentals, LLC (Owner & Applicant)

B. O'Brien read the case into the record noting the previous zoning. Paul English, Esq., from The Law Offices of Paul C. English, PLLC, 57 Bay Street, Manchester, NH, addressed the Board stating that he is representing the applicant, Vine St Rentals. P. English noted that they have been before the Board due to the oddity of the lot. He said that they are presenting the same application for the same use. He pointed out the only difference was the applicant when purchasing the land approached the abutter to buy land, and the abutter had their land surveyed, and unfortunately there was not as much land as they thought, so the abutter was no longer interested in selling. He stated that the applicant had to start from scratch with new plans, noting that they might work out a right-of-way with the abutter in the future.

He then read the criteria for granting the variance:

- (1) The granting of the variance is not contrary to the public interest: because it does not change the essential character of the neighborhood as there are other single family homes in the area and it cannot be developed into anything else.
- (2) The spirit of the ordinance is observed: because it will not change the essential character of the neighborhood.
- (3) Substantial justice is done: because the loss to the applicant would not outweigh any gain to the public.
- (4) Values of surrounding properties are not diminished: because the addition of a single family home is consistent with abutting properties, so there would be no decrease in the value of the same.
- (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 because alternate access to the lot was discontinued by Route 93 and is therefore landlocked but for access from Gerry Lane. He said that the proposed use is a reasonable one.

Vice Chair Benard asked for questions from the Board. M. Feig asked what the process is given that this is a Class V road. L. Gandia replied that if they are granted the variance, the applicant will appear before the Planning Board. The Planning Board will then make a recommendation to the Town Council and the applicant will appear before the Town Council at a public hearing. L. Gandia provided the Board with a copy of the relevant statute in the case file. B. O'Brien noted the statute that specifically discusses this as RSA 671:41. D. Armstrong asked if there was a road for access before Route 93 cut it off. P. English replied that he is not aware of any, noting that other ZBA Board members referenced this in the last variance case.

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

Vice Chair brought the discussion back to the Board and began deliberation:

- (1) The granting of the variance is not contrary to the public interest: because it does not change the essential character of the neighborhood nor threaten the health, safety or welfare of the general community.
- (2) The spirit of the ordinance is observed: because it will not change the essential character of the neighborhood.
- (3) Substantial justice is done: because the loss to the applicant would not outweigh any gain to the public.
- (4) Values of surrounding properties are not diminished: because it will not have any adverse effect on any neighboring 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 property is unique given that it is essentially landlocked by Route 93. The proposed use is a reasonable one.

S. Brunelle made a motion in CASE NO. 04/21/2021-3 to grant the request for a variance from LZO 4.2.1.3.B.1 to allow construction of a single family dwelling on a lot with no frontage on a Class V or better road, 22 Gerry Lane, Map 18 Lot 5, Zoned AR-1, Vine St Rentals, LLC (Owner & Applicant)

B. O'Brien seconded the motion.

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

VI. Other Business

Adjournment:

M. Feig made a motion to adjourn at 8: 26 p.m.

I. Macarelli seconded the motion.

The motion was granted, 5-0-0. The meeting adjourned at 8:26 p.m.

RESPECTFULLY SUBMITTED,



CLERK

TYPED AND TRANSCRIBED BY Beth Morrison, Recording Secretary.

APPROVED (X) WITH A MOTION MADE BY M. Feig, SECONDED BY S. Bunnelle 5 - 0 - 0.

Ex 1

Design Review Committee

**Heritage Commission
Comment Sheet**

Project: Bauchman's Towing Site Plan

Location: 4 Enterprise Drive (Map 15 Lot 62-1)

Date: November 2, 2020

Please return comments by Nov 16, 2020 .

Please return comments to Colleen Mailloux cmalloux@londonderrynh.org **Thank You.**

Are there any particular concerns regarding the following items? (Check item of concern, explain below)

- ☐ Historic Buildings/Structures
- ☐ Stonewalls
- ☐ Other Historic Resources
- ☐ Signage
- ☐ Other issues (explain below)

- ☒ Site Design/Landscaping
- ☐ Architectural Design
- ☐ Lighting
- ☐ Street Naming/Development Name

Comments:

Add trees/shrubs to Southwest corner of fence.

Submitted by: 

Date: 11/19/2020



Londonderry Conservation Commission
Tuesday, October 27, 2020
Minutes

39 that the previously approved building pushed the drainage swale farther south. J. Lopez replied that was
40 not correct, stating that if they pulled the entire swale out of the buffer, the outlet would be two feet
41 higher, which then in turn would impact the height of the detention pond, as well as the grading around
42 the detention pond, making the building two feet higher. He added that if they increase the platform
43 area by two feet there would be a problem with the driveway connection entrance and grades. M Byerly
44 asked what non-motorized equipment would be and if they have a plan for leaking oil or gas from the
45 vehicles involved in accidents. Brian Bauchman, owner, replied that any vehicles that get back to the site
46 from an accident scene have lost all the fluid, but they will put pads underneath the vehicles if they need
47 to. He commented that he owns four tractor trailer low beds and dry boxes that do not have motors or
48 oils, which would be stored out back in the gravel area. He said that tractors and trucks would be in the
49 garage. M Speltz asked about the landscape plan as well as the steps they have taken to screen the Rail
50 Trail from the site. J. Lopez replied that because there was a change in the building they removed the
51 internal landscape islands on the previously approved plan, but they did relocate one of the small
52 plantings to the side of the entrance. He noted that they duplicated verbatim what was previously
53 approved along the Rail Trail, as they assumed it was agreeable before so it would be agreeable now. M
54 Badois asked if the elevation of the property is higher than the Rail Trail. J Lopez stated that the Rail Trail
55 sits behind a natural berm and reviewed the plan with the Commission noting the topography and
56 grades. He added that the platform is three to four feet below the Rail Trail. M Speltz asked why the
57 riprap was placed if they are not disturbing the slope. J Lopez responded that there is a limitation on 3:1
58 slope so they have to use riprap for stability. M Speltz asked if the contours that are shown are going to
59 be created. J Lopez replied that was correct stating the site is fairly flat. M Speltz asked if they are taking
60 material out. J Lopez answered that was correct. M Speltz asked if this was to create the flat parking
61 area. J Lopez replied that was correct. B Bauchman told the Commission that there is a big knoll that is in
62 between the Rail Trail and the parking lot at his site. He mentioned that the proposed six-foot chain-link
63 fence is lower than the knoll. M Speltz asked why they have a break in the tree line where they are
64 proposing to plant shrubs, instead of planting more trees in that location. J Lopez replied that they kept
65 verbatim the previous planting that had been negotiated in 2016. M Speltz asked if they would consider
66 extending the tree plantings in an alternating fashion to close the gap. J Lopez asked if he is suggesting
67 removing some shrubs and plant trees. M Speltz stated that is correct in order to reinforce the visual
68 barrier. He asked if it was a one-story building. B Bauchman replied that they have 14-foot garage doors.
69 He said that he believes someone might see the peak of the building from the Rail Trail. M Speltz
70 mentioned that when people are walking the trail, most people are not looking at ground level, but
71 rather looking up, and the trees would increase the chance of people not being able to view the
72 building. J Lopez stated that he would like to hear the input from the Planning Board before deciding on
73 adding more trees. M Badois asked what kind of trees they would be. J Lopez replied that they are
74 common lilac. M Badois asked if the Commission could access their comments from 2016 to review why
75 they might have asked for this particular planting. A Kizak replied that she would have to look in the file
76 from 2016 and get back to her. S Malouin asked if the snow storage would flow into the buffer. J Lopez
77 replied that they have made the grading so it creates a bit of a valley for the run-off to come through
78 onto the gravel parking area where there is a catch basin with a sump to outlet into the sediment
79 forebay into the detention pond and then out to the treatment swale. S Malouin asked if there was a

EX. B

Exhibit B

Shed Design

CHECKOUT

Base Model

Style: Victorian Cottage A Frame

Size: 12' x 18'

Shingle: Architectural

Shingle Color: Black

Siding: Vinyl Clapboard

Siding Color: Sagebrook

Shutter Color: Black

Extra Options

Shutters, Double Door Ramp, Bottom Trim, Architectural Shingles, Large Windows, Cottage Vents, Loft

Current Selection

12' x 18', Victorian Cottage A Frame, Vinyl Clapboard, Layout 9



Proposed shed design (likely to not include the ramp on the right)

Exhibit F

Dear Bill,

I have reviewed the placement and aesthetics of your proposed shed (starting 11' from the south facing side of your home). I feel that this will not diminish the value of my property and appreciate your due diligence in selecting a visually appealing shed.

I fully support your request to the Town of Londonderry to encroach a maximum of 5 feet into the 15 foot side setback when placing a 12' by 18' shed.

Thank you

Gilles and Denise Nadeau

17 Griffin Rd

Londonderry NH 03053

Denise Nadeau
Bill Nadeau

Exhibit G

Dear Bill,

Thank you for taking the time to survey your property with me to find a suitable location for the proposed shed. I confirm that the back portion of our yards tend to accumulate water and not drain well given how flat it is. Additionally, I ask that you not place the shed along the south-facing side of my property in the backyard because my deck will directly look over the back wall of your shed. Additionally, I request that you do not put the shed in the middle of the yard as I feel this would be a distraction when looking out from my home. I feel that the proposed will not diminish the value of my property.

I fully support your request to the Town of Londonderry to encroach a maximum of 5 feet into the 15 foot side setback and place a 12' by 18' shed.

Thank you

Julian and Courtney Anding

20 Griffin Rd

Londonderry NH 03053

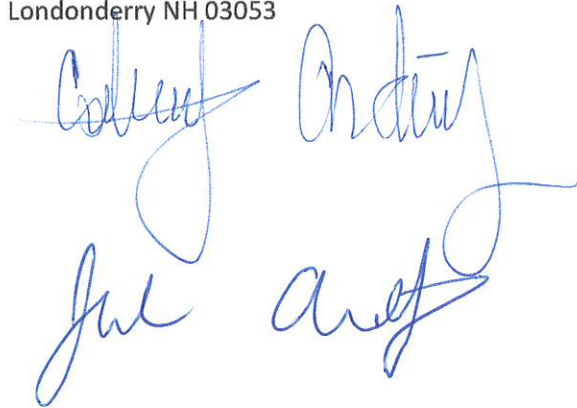
Handwritten signatures of Courtney Anding and Julian Anding in blue ink.

Exhibit H

Dear Bill,

I have reviewed the placement of your proposed shed (starting 11' from the south facing side of your home). After walking the 22 Griffin Rd property, I agree that this location is the most appropriate given the unique features of your property. I feel that this will not diminish the value of my property.

I fully support your request to the Town of Londonderry to encroach a maximum of 5 feet into the 15 foot side setback and place a 12' by 18' shed between our homes.

Thank you



Derek Schena

24 Griffin Rd

Londonderry NH 03053