

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

MINUTES FROM 07/21/21 MEETING

The meeting was called to order at 7:00 p.m. Members introduced themselves. The following members were present: Neil Dunn, Chair; Jacqueline Benard, Vice Chair; Suzanne Brunelle, member; Mitch Feig, alternate member; Irene Macarelli, alternate member. Also, participating was Laura Gandia, Associate Planner; Nick Codner, Chief Building Inspector; and Beth Morrison, Recording Secretary. Chairman Dunn made M. Feig and I. Macarelli full voting member this evening.

- I. APPROVAL OF MINUTES - The minutes will be voted on at next meeting.
- II. REPORT BY TOWN COUNCIL – D. Paul informed the Board that she had no update this evening.
- III. REGIONAL IMPACT DETERMINATIONS: Associate Planner Gandia informed the Board that she had six projects for their consideration.
 1. CASE NO. 07/21/2021-1: Request for four variances from LZO: (1) 4.3.3.A.1 to encroach 35 feet into the 60 foot front setback for an existing non-conforming building and a proposed addition; (2) 4.3.3.A.2 to encroach 5 feet into the 30 foot side setback for an existing non-conforming building; (3) 4.3.3.B.1 to encroach 13.7 feet into the 15 foot perimeter green landscaping buffer for a paved parking area; and (4) 4.3.3.B.1 to encroach 30 feet into the 30 foot front perimeter green landscaping buffer for a paved parking area, 213 Rockingham Road, Map 15 Lot 23-1, Zoned C-I, Gagne Family Trust (Owner) and Paula Gagne (Applicant)
 2. CASE NO. 07/21/2021-2: Request for a variance from LZO 4.3.3.B to reduce the required 33% green landscaping area to 11% with the addition of an 8 ft x 12 ft extension to the existing patio, 103 Nashua Road, Map 6 Lot 35-17, Zoned C-I, Rivard Pizza, LLC (Owner) and Renegades Pub North (Applicant)
 3. CASE NO. 07/21/2021-3: Request for a variance from LZO 4.3.3.A.1 to encroach 32.2 feet into the 60 foot front setback for the addition roll up/down plastic barriers on an existing patio, 103 Nashua Road, Map 6 Lot 35-17, Zoned C-I, Rivard Pizza, LLC (Owner) and Renegades Pub North (Applicant)
 4. CASE NO. 07/21/2021-4: Request for a variance from LZO 4.1.2 Use Table to allow a restaurant use in the Industrial II zone which is otherwise prohibited, 49 Harvey Road, Map 14 Lot 44-5, Zoned IND-II, LEXOR Realty, LLC (Owner) and Pipe Dream Brewing, LLC (Applicant)
 5. CASE NO. 07/21/2021-5: Request for a variance from LZO 4.1.2 Use Table to allow a daycare use in the Agricultural-Residential zone which is otherwise prohibited. 40 Mammoth Road, Map 1 Lot 43 Zoned AR-1, Mac & Families, LLC (Owner & Applicant)

6. CASE NO. 07/21/2021-6: Request for a variance from LZO 7.8.B to encroach 5 feet +/- into the side setback for the construction of a sign, 18 Orchard View Drive, Map 7 Lot 40-12, Zoned C-I, STG Realty Associates, LLC (Owner & Applicant)

J. Benard made a motion that none of these projects are of regional impact.

The motion was seconded by S. Brunelle.

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

IV. PUBLIC HEARING OF CASES

A. CASE NO. 05/19/2021-4: Request for a special exception pursuant to LZO 5.15.1 for a portable storage structure in the AR-I district, 136 Pillsbury Road, Map 6 Lot 18-2, Zoned AR-1, Orchard Christian Fellowship Church (Owner & Applicant) – continued from the May meeting – WITHDRAWN BY THE APPLICANT

S. Brunelle read the case into the record noting it has been withdrawn by the applicant.

B. CASE NO. 06/16/2021-1: Request for four variances from LZO: (1) 7.7.E.3 to allow a changeable electronic message board sign that is otherwise prohibited; (2) 7.5.C to allow a sign 16 feet in height where only 10 feet in height are allowed; (3) 7.6.D.3.B to allow an additional wall sign where only one is permitted; and (4) 7.6.D.3.a.i to allow a free standing sign to be located 4 feet from the Nashua Road property line where 15 feet are required and 2 feet from the Ela Road property line where 15 feet are required, Seven Nashua Road, Map 10 Lot 129, Zoned C-II, RGGGS Realty, Inc. (Owner) and NH Signs (Applicant) – continued from the June meeting

S. Brunelle read the case into the record noting the previous zoning was discussed at the last meeting. Peter March and Don Ware, from NH Signs, 66 Gold Ledge Avenue, Auburn, NH, addressed the Board. Chairman Dunn asked for an update on the previous variances. N. Codner told the Board that they were granted variance in 1968 to build the gas station and in 1996 they were granted a variance for a free standing sign which was allowed to be closer than 15-feet and 66 SF. He went on noting in 2006 they were granted a variance to have the sign 4-feet off Nashua Road and 2-feet off Ela Road. S. Brunelle clarified that it was 10-feet and 5-feet that was withdrawn. Chairman Dunn asked for the SF. N. Codner replied it was 32 SF. Chairman Dunn asked for the SF of the proposed sign. P. March responded they are asking for 48 SF, noting the sign is currently 38 SF, but they are allowed 65 SF. He stated the decision from 2006 was related to the setback, not the size of the sign. Chairman Dunn commented that normally they would be allowed 65fSF if they complied with all the other setbacks and regulations. P. March reviewed the previous variances, stating that the 1998 variance was granted with restrictions, but they cannot find the restrictions. He added that the 1996 variance was granted with restrictions, but the 2006 variance supersedes the others. He mentioned that a variance was denied in 2002 for a setback of 4-feet and 2-feet, but again noting that this is superseded by the 2006 variance. He concluded that in his opinion, the only relevant variance is from 2006 where the size of the sign is not mentioned. N. Codner

read the minutes from 2006 as follows: " LARRY O'SULLIVAN: I think we need to answer Miss Brownell's comment about the size. If it's presented as a four (4) by eight (8) and they put up something larger than a four (4) by eight (8), they'll be required to take it down." Chairman Dunn told the other Board members that were not here last month that the Board requested more information on the size of the sign, as it just keeps getting bigger and bigger. He added that they were also concerned about clutter on the sign as well and asked if the applicant addressed any of these issues. P. March disagreed with N. Codner, as he cannot find any mention of the size of the sign in the decision. Chairman Dunn said that it was in the minutes and the minutes are part of the meeting. He said that they are requesting a sign that is 48 SF, where 32 SF was granted, but it is currently 38 SF in size. M. Feig asked if 32 SF was required at the time of the variance request in 2006 or if larger signs were allowed. N. Codner replied that he does not know why they have a 38 SF sign when there were told they can only have 32 SF. He added that they were concerned with the shape of the sign, as they were going from a round sign to a rectangular sign, as well as the height of the sign, as they did not want it to be any lower. P March presented the minutes to M. Feig (Exhibit 1). The Board reviewed Exhibit 1. Chairman Dunn reiterated that he is concerned about size, and where it is located with vehicles hitting it. P. March remarked that the existing sign is 38 SF and it must be a legal sign or it would have been an enforcement issue. Chairman Dunn remarked that it might not be, as they do not go around measuring every sign, unless someone complains about it. He pointed out that there is no variance to back up the size of the sign. He stressed that in his opinion, it is a safety issue, as the sign is lowered at the entrance way with cars and trucks going in. P. March asked if the Board was okay with 38 SF, which is the size of the current sign. Chairman Dunn replied that it would not meet the variance that was granted, but believed that the Board would be more willing to consider it. He mentioned that he is still concerned about "Synergy" on the sign, as that is clutter. P. March commented that in order to make the sign 38 SF, "Synergy" would not be included. M. Feig asked if they are willing to change the location. P. March answered that they are not able to change the location and the height would need to be kept the same for visibility and keeping it out of the power lines. He pointed out that they are able to shrink it sideways to 38 SF. He said that it would not exceed the setback on Nashua Road side. Chairman Dunn asked for the overall dimensions. P. March stated that he would reduce the size to 38 SF, get rid of "Synergy", make sure the Nashua Road side does not encroach further. M. Feig asked how they can change what was previously approved. Chairman Dunn asked if the setback would change. P. March replied that the setback is measured off Mobile, not the existing price sign. He said that the top of the sign is 6-feet wide and the bottom is 5-feet wide, so it would reduce the setback by 6 inches. P. March corrected himself stating it would increase the setback by 6 inches of Nashua Road and have no effect on the other. Chairman Dunn asked if N. Codner would need clarification on enforcement. N. Codner answered that it would be up to the Board to grant the variance, but he does not have a problem with it. Chairman Dunn asked if the existing sign is 16 feet. P. March replied that is correct and the height is needed so vehicles will not hit the bottom of the sign and for the power lines. S. Brunelle asked if the additional sign was for the convenience store. P. March replied that was correct, they would have two Mobile signs and one convenience store sign. He reviewed why they feel the convenience store is essential for this establishment. J. Benard asked if the convenience store would have the same lighting hours as the Mobile signs. P. March replied that was correct. S. Brunelle asked for the SF of the third sign. P. March answered that it is 21 SF.

Chairman Dunn asked for public input and there was none.

The Board closed public input and began deliberation on Section 7.7.E.3 to allow a changeable electronic message board sign that is otherwise prohibited:

- (1) The variance would not be contrary to the public interest: because it does not alter the essential character of the neighborhood.
- (2) The spirit of the ordinance would be observed: because it does not alter the essential character of the neighborhood nor threaten the health, safety or welfare of the general public.
- (3) Substantial justice would be done: because the loss to the applicant is greater than any gain to the general public.
- (4) Values of the surrounding properties would not be diminished: because the area is commercial and the property is similar to all other properties in the area.
- (5) There is not 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 property has multiple setbacks and other properties in the area have LED digits to display gas prices. The proposed use is a reasonable one.

J. Benard made a motion in CASE NO. 06/16/2021-1 to grant the request from LZO 7.7.E.3 to allow a changeable electronic message board sign that is otherwise prohibited, Seven Nashua Road, Map 10 Lot 129, Zoned C-II, RGGGS Realty, Inc. (Owner) and NH Signs (Applicant) with the conditions that the electronic message board is only for digits and gas station prices and the sign will be non-scrolling and non-flashing.

M. Feig seconded the motion.

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

The Board closed public input and began deliberation on Section 7.5.C to allow a sign 16 feet in height where only 10 feet in height are allowed:

- (1) The variance would not be contrary to the public interest: because it does not alter the essential character of the neighborhood.
- (2) The spirit of the ordinance would be observed: because it does not alter the essential character of the neighborhood and the height is needed for public safety.
- (3) Substantial justice would be done: because the loss to the applicant outweighs any gain to the general public.
- (4) Values of the surrounding properties would not be diminished: because the essential character of the neighborhood would not be changed as it is already a commercial area.
- (5) There is not 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 sign

height is needed for visibility and safety and is replacing an existing sign in a commercial area. The proposed use is a reasonable one.

J. Benard made a motion in CASE NO. 06/16/2021-1 to grant the request from LZO 7.5.C to allow a sign 16 feet in height where only 10 feet in height are allowed, Seven Nashua Road, Map 10 Lot 129, Zoned C-II, RGGGS Realty, Inc. (Owner) and NH Signs (Applicant).

M. Feig seconded the motion.

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

The Board closed public input and began deliberation on Section 7.6.D.3.B to allow an additional wall sign where only one is permitted:

- (1) The variance would not be contrary to the public interest: because it does not alter the essential character of the neighborhood adding a sign to identify the convenience store.
- (2) The spirit of the ordinance would be observed: because it does not alter the essential character of the neighborhood nor threaten health, safety or welfare of the general public.
- (3) Substantial justice would be done: because the loss to the applicant outweighs any gain to the general public.
- (4) Values of the surrounding properties would not be diminished: because the essential character of the neighborhood would not be changed as it is already a commercial area.
- (5) There is not 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 property has poor visibility, heavy traffic, multiple setbacks and would help identify the convenience store. The proposed use is a reasonable one as signs are reasonable.

J. Benard made a motion in CASE NO. 06/16/2021-1 to grant the request from LZO 7.6.D.3.B to allow an additional wall sign where only one is permitted, Seven Nashua Road, Map 10 Lot 129, Zoned C-II, RGGGS Realty, Inc. (Owner) and NH Signs (Applicant) with the condition that the sign be no larger than 24 SF and the illumination of the sign be the same hours as the gas station.

I. Macarelli seconded the motion.

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

The Board closed public input and began deliberation on Section 7.6.D.3.a.i to allow a free standing sign to be located 4.6 inches feet from the Nashua Road property line where 15 feet are required and 2 feet from the Ela Road property line where 15 feet are required:

- (1) The variance would not be contrary to the public interest: because it does not alter the essential character of the neighborhood nor threaten the health, safety or welfare of the general public.
- (2) The spirit of the ordinance would be observed: because it does not alter the essential character of the neighborhood and it addresses the safety issues.
- (3) Substantial justice would be done: because the loss to the applicant outweighs any gain to the general public.
- (4) Values of the surrounding properties would not be diminished: because the essential character of the neighborhood would not be changed as it is already a commercial area.
- (5) There is not 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 property has multiple setbacks, poor visibility and heavy traffic. The proposed use is a reasonable one.

J. Benard made a motion in CASE NO. 06/16/2021-1 to grant the request from 7.6.D.3.a.i to allow a free standing sign to be located 4 feet from the Nashua Road property line where 15 feet are required and 2 feet from the Ela Road property line where 15 feet are required, Seven Nashua Road, Map 10 Lot 129, Zoned C-II, RGGS Realty, Inc. (Owner) and NH Signs (Applicant) with the following conditions: (1) the setback encroachments shall be no greater than 4 feet 6 inches from the Nashua Road property line and 2-feet from the Ela Road property line; (2) the sign shall contain two components – one for branding ad the second for pricing; and (3) the sign shall be no greater than 38 SF.

I. Macarelli seconded the motion.

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

P. March asked for the condition to not have Synergy on the sign, as he needs to show this to Mobile. M. Feig remarked that he not think that was something the Board should condition. S. Brunelle stated that it is dealing with clutter and could put that the sign shall only be 38 SF with Mobile and LED digit prices only. Chairman Dunn pointed out that there are concerns about free speech. L. Gandia commented that the Board should not restrict the wording. P. March suggested that the Board could restrict the sign to have two components, of which one shall be the brand and the other the pricing.

C. CASE NO. 07/21/2021-1: Request for four variances from LZO: (1) 4.3.3.A.1 to encroach 35 feet into the 60 foot front setback for an existing non-conforming building and a proposed addition; (2) 4.3.3.A.2 to encroach 5 feet into the 30 foot side setback for an existing non-conforming building; (3) 4.3.3.B.1 to encroach 13.7 feet into the 15 foot perimeter green landscaping buffer for a paved parking area; and (4) 4.3.3.B.1 to encroach 30 feet into the 30 foot front perimeter green landscaping buffer for a paved parking area, 213 Rockingham Road, Map 15 Lot 23-1, Zoned C-I, Gagne Family Trust (Owner) and Paula Gagne (Applicant)

S. Brunelle read the case into the record noting the previous zoning. Karl Dubay, P.E., from The Dubay Group, Inc., 136 Harvey Road, Unit B101, Londonderry, NH; Paula Gagne, owner; and Laura Dodge, Esq. from McLane Middleton, 900 Elm Street, 10th Floor, Manchester, NH, addressed the Board. K. Dubay reviewed the parcel on the screen with the Board. He noted that P. Gagne bought the property a year ago and relocated her office there. He commented that she would like to expand the building to the rear for a bathroom and conference room. He gave some background information on what the parcel used to be, noting it was a house, office and most recently a spa. He said that you will not see the expansion from the road. He pointed out that they would like to rearrange the existing parking lot by removing pavement on the existing buffer sideline and put in trees. He added that they will remove any pavement on the existing abutter property line, which has been there forever. He said that he feels that they are making the property better than what is currently there. He mentioned that she is removing the existing sign and replacing it with a smaller sign that is setback further. He asked if the Board would consider this as one package. Chairman Dunn replied that is up to the applicant.

He then read the criteria for granting all four of the variances together:

- (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 the renovation of the small building for the office will provide increased public tax base, and the owner's use serves a needed public benefit which is managing in-home health care services. Views from the street will not be affected as the addition is to the rear and the parking area is existing.
- (2) The spirit of the ordinance is observed: because the addition to the existing building is in the rear, and the smaller scale of the setting and building is retained, along with the existing parking area being reduced with improvements. The existing building is already wholly in the front setback and pre-dates the current zoning setback. The parking area is existing with reduced paved area and the views from the street are appropriate to the intent of a small office site.
- (3) Substantial justice is done: because the uses of this setting started with residential in the 1940's and changed over the decades, including mixed use, commercial, office and spa. The new current use as a small professional office is visually appealing and appropriate. A New Hampshire Department of Transportation (NHDOT) permit was re-issued recognizing the re-use of the existing parking area and drive.
- (4) Values of surrounding properties are not diminished: because the new owner has invested substantially in renovating the existing building and improving the landscaping and setting. The addition will be placed in the rear and has no negative visual impact to abutters. Improving the small parking area that has existed there for decades will decrease the encroachment towards an abutters property.
- (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 current underlying zoning did not contemplate renovations of small existing office buildings that exist in the front setback. The design would indeed meet the corridor overlay district via conditional

use permit (CUP), however, it cannot apply as the parcel area is not large enough to qualify the overlay provisions. He said that the proposed use is a reasonable one.

Chairman Dunn asked for questions from the Board. S. Brunelle asked if this was a non-conforming property. K. Dubay replied it is an existing, non-conforming property. S. Brunelle asked how many parking spaces are there now. K. Dubay replied that they have eight or nine, but they do not meet the regulations so they are proposing six spaces that meet the regulations. S. Brunelle asked if the lot was one acre in size. K. Dubay replied that was correct. He reviewed the parcel with the Board noting that there are wetlands all the way to the rear of the property and a small green area yard. He went on stating that the Heritage Commission asked them to let the green area yard grow in to the 50-foot existing wetland buffer. S. Brunelle asked if the wetlands are impeding the applicant from pushing the building back on the lot. K. Dubay replied that they would have to take the building down and they did not think that was the best alternative. S. Brunelle commented that the ordinance is there for a reason and they are trying to bring properties into conforming use. K. Dubay reiterated that they could rip the building down and put a larger building in the back, but do not think that it the most reasonable alternative, as the building has been there prior to the zoning ordinance. Chairman Dunn asked if the old original building was encroaching but has nothing to do with the addition. N. Codner replied that because it is pre-existing, non-conforming if they were to expand the use, they would lose that status, so that is why they need the variance. L. Gandia reviewed the schematic with the Board. M. Feig asked if the addition goes into the setback. K. Dubay answered that it does go into the setback about five to seven feet, but they had to ask for the entire building. M. Feig asked if the five feet into the setback is from the addition. K. Dubay replied that the new portion of the building is about five to seven feet into the front setback. M. Feig said that the entire building is too far into the front. K. Dubay answered that is correct.

Chairman Dunn asked for public input and there was none.

The Board closed public input and began deliberation on Section 4.3.3.A.1 to encroach 35 feet into the 60 foot front setback for an existing non-conforming building and a proposed addition:

- (1) The variance would not be contrary to the public interest: because it does not alter the essential character of the neighborhood as the area is mixed use already.
- (2) The spirit of the ordinance would be observed: because it does not threaten the health, safety or welfare of the general public.
- (3) Substantial justice would be done: because the loss to the applicant outweighs any gain to the general public.
- (4) Values of the surrounding properties would not be diminished: because the essential character of the neighborhood would not be changed and they are improving the landscaping and reducing the parking.
- (5) There is not 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 property is unique as it looks residential in a commercial zone and the lot size is small in comparison to the other lots surrounding it. The proposed use is a reasonable one.

J. Benard made a motion in CASE NO. 07/21/2021-1 to grant the request from LZO 4.3.3.A.1 to encroach 35 feet into the 60 foot front setback for an existing non-conforming building and a proposed addition, 213 Rockingham Road, Map 15 Lot 23-1, Zoned C-I, Gagne Family Trust (Owner) and Paula Gagne (Applicant).

I. Macarelli seconded the motion.

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

The Board closed public input and began deliberation on Section 4.3.3.A.2 to encroach 5 feet into the 30 foot side setback for an existing non-conforming building:

- (1) The variance would not be contrary to the public interest: because it does not alter the essential character of the neighborhood as it is a mixed use neighborhood already.
- (2) The spirit of the ordinance would be observed: because it does not threaten the general health, safety or welfare of the general public.
- (3) Substantial justice would be done: because the loss to the applicant outweighs any gain to the general public.
- (4) Values of the surrounding properties would not be diminished: because the essential character of the neighborhood would not be changed and they are improving landscaping and reducing the parking.
- (5) There is not 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 property is unique as it looks residential in a commercial zone and the lot size is small in comparison to the other lots surrounding it. The proposed use is a reasonable one.

J. Benard made a motion in CASE NO. 07/21/2021-1 to grant the request from LZO 4.3.3.A.2 to encroach 5 feet into the 30 foot side setback for an existing non-conforming building, 213 Rockingham Road, Map 15 Lot 23-1, Zoned C-I, Gagne Family Trust (Owner) and Paula Gagne (Applicant).

M. Feig seconded the motion.

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

The Board closed public input and began deliberation on Section 4.3.3.B.1 to encroach 13.7 feet into the 15 foot perimeter green landscaping buffer for a paved parking area:

- (1) The variance would not be contrary to the public interest: because it does not alter the essential character of the neighborhood.

- (2) The spirit of the ordinance would be observed: because it does not threaten the health, safety or welfare of the general public.
- (3) Substantial justice would be done: because the loss to the applicant outweighs any gain to the general public.
- (4) Values of the surrounding properties would not be diminished: because the essential character of the neighborhood would not be changed and they are reducing the amount of pavement.
- (5) There is not 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 property is unique as it looks residential in a commercial zone and the lot size is small in comparison to the other lots surrounding it. The proposed use is a reasonable one.

J. Benard made a motion in CASE NO. 07/21/2021-1 to grant the request from LZO 4.3.3.B.1 to encroach 13.7 feet into the 15 foot perimeter green landscaping buffer for a paved parking area, 213 Rockingham Road, Map 15 Lot 23-1, Zoned C-I, Gagne Family Trust (Owner) and Paula Gagne (Applicant)

M. Feig seconded the motion.

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

The Board closed public input and began deliberation on Section 4.3.3.B.1 to encroach 30 feet into the 30 foot front perimeter green landscaping buffer for a paved parking area:

- (1) The variance would not be contrary to the public interest: because it does not alter the essential character of the neighborhood.
- (2) The spirit of the ordinance would be observed: because it does not threaten any health, safety or welfare of the general public.
- (3) Substantial justice would be done: because the loss to the applicant outweighs any gain to the general public.
- (4) Values of the surrounding properties would not be diminished: because the essential character of the neighborhood would not be changed and they are improving the landscaping.
- (5) There is not 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 property is unique as it looks residential in a commercial zone and the lot size is small in comparison to the other lots surrounding it. The proposed use is a reasonable one.

J. Benard made a motion in CASE NO. 07/21/2021-1 to grant the request from LZO 4.3.3.B.1 to encroach 30 feet into the 30 foot front perimeter green landscaping buffer for a paved parking area, 213 Rockingham Road, Map 15 Lot 23-1, Zoned C-I, Gagne Family Trust (Owner) and Paula Gagne (Applicant).

I. Macarelli seconded the motion.

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

(The Board took a 5 minute break at this time 9:00 p.m. to 9:05 p.m.)

D. CASE NO. 07/21/2021-2: Request for a variance from LZO 4.3.3.B to reduce the required 33% green landscaping area to 11% with the addition of an 8 feet x 12 feet extension to the existing patio, 103 Nashua Road, Map 6 Lot 35-17, Zoned C-I, Rivard Pizza, LLC (Owner) and Renegades Pub North (Applicant)

S. Brunelle recused herself from this case. M. Feig read the case into the record noting the previous zoning. M Feig read letters of support (Exhibit 2) at this time. Christopher Drescher, Esq. from Cronin, Bisson & Zalinsky, P.C., 722 Chestnut Street, Manchester, NH, and Greg Ryan, owner and applicant addressed the Board. Chairman Dunn informed the applicant that they only have four members at this time and therefore, the applicant could continue the case until next month when the Board hopefully has a full complement. The applicant told the Board that he wished to continue the cases until next month.

J. Benard made a motion to continue CASE NO. 07/21/2021-2 to the request for a variance from LZO 4.3.3.B to reduce the required 33% green landscaping area to 11% with the addition of an 8 feet x 12 feet extension to the existing patio, 103 Nashua Road, Map 6 Lot 35-17, Zoned C-I, Rivard Pizza, LLC (Owner) and Renegades Pub North (Applicant) until August 18, 2021.

I. Macarelli seconded the motion.

The motion was granted, 4-0-0. The applicant's request for a variance was continued until August 18, 2021.

E. CASE NO. 07/21/2021-3 LZO 4.3.3.A.1 to encroach 32.2 feet into the 60 foot front setback for the addition roll up/down plastic barriers on an existing patio, 103 Nashua Road, Map 6 Lot 35-17, Zoned C-I, Rivard Pizza, LLC (Owner) and Renegades Pub North (Applicant)

S. Brunelle recused herself from the case. M. Feig read the case into the record noting the previous zoning. He read letters of support (Exhibit 2) into the record at this time.

J. Benard made a motion to continue CASE NO. 07/21/2021-2 to the request for a variance from LZO 4.3.3.B to reduce the required 33% green landscaping area to 11% with the addition of an 8 feet x 12 feet extension to the existing patio, 103 Nashua Road, Map 6 Lot 35-17, Zoned C-I, Rivard Pizza, LLC (Owner) and Renegades Pub North (Applicant) until August 18, 2021.

I. Macarelli seconded the motion.

The motion was granted, 4-0-0. The applicant's request for a variance was continued until August 18, 2021.

F. CASE NO. 07/21/2021-4: Request for a variance from LZO 4.1.2 Use Table to allow a restaurant use in the Industrial II zone which is otherwise prohibited, 49 Harvey Road, Map 14 Lot 44-5, Zoned IND-II, Lexor Realty, LLC (Owner) and Pipe Dream Brewing, LLC (Applicant)

S. Brunelle came back to the Board for this case. She read the case into the record noting the previous zoning.

M. Feig made moved that the Board cannot consider Pipe Dream, LLC's variance application because it is not materially different in nature and degree from Pipe Dream's previous variance application. Additionally, this second application does not meaningfully address the health, safety, welfare, and parking concerns raised in response to the first variance application.

S. Brunelle seconded the motion.

The motion passed, 5-0-0.

Christopher Drescher, Esq. from Cronin, Bisson & Zalinsky, P.C., 722 Chestnut Street, Manchester, NH, asked if he could speak. Chairman Dunn told the applicant that they believe this variance is not substantially different and did not address the health, safety concerns. He noted that the Board has authority to not re-hear a case that is not substantially different. C. Drescher stated that he believes the health, safety and welfare would be addressed and then the Board could make a recommendation to the Planning Board. Chairman Dunn reiterated that the Board did not see anything substantially different with this application. C. Drescher commented that his next step is his next step

G.CASE NO. 07/21/2021-5: Request for a variance from LZO 4.1.2 Use Table to allow a daycare use in the Agricultural-Residential zone which is otherwise prohibited. 40 Mammoth Road, Map 1 Lot 43 Zoned AR-1, Mac & Families, LLC (Owner & Applicant)

S. Brunelle read the case into the record noting the previous zoning. Daniel Muller, Esq. from Cronin, Bisson & Zalinsky, P.C., 722 Chestnut Street, Manchester, NH, addressed the Board. D. Muller stated that Mary Lou Brown, owner and applicant of the property is with him as well. He reviewed some background with the Board stating that in 2005 the applicant acquired the property from Victory Baptist Church for the purpose of operating a daycare center thereon. He added that they did their homework and inquired of the Town as to whether the applicants proposed use of the property as a daycare center would be permitted. He stated that by a letter dated May 3, 2005, James. L. Smith, the Town's then Zoning Administrator and Health Officer who would have personal knowledge of the scope of the then existing use on the property, advised applicant that the proposed use would be the continuation of a pre-existing non-conforming use of the property. He said that they purchased the property based upon this information and began operating a daycare center. He noted that they have operated as a daycare business since 2005 and are required by state statute for their license, they get a verification from the town that their operation conforms with the zoning ordinance. He went on noting that there is also a question as to whether there is a restriction on the number of children served at this location. He

commented that there are letters signed off by Richard Canuel, the previous Zoning Administrator, that they complied with the zoning ordinance and there were no restrictions on the number of children. He pointed out that this needs to happen every three years. He said that based on this information the owner and applicant improved the business, spending over 1 million dollars on the daycare business. He said that after being the business for over 15 years, the applicant wanted to sell the business and the property. He mentioned that a prospected buyer went to the Town to confirm the use was permitted, but prior to the prior positions taken by the town on a repeated basis, they were informed that the use was not permitted. He stated that on April 17, 2021, a Notice of Violation was issued by Nick Codner, the Town's new Chief Building Inspector, advising the applicant that "after careful consideration and consultation with Town Attorneys we have determined the standalone use of this property as a daycare center is in violation of the Town Zoning Ordinance" and a variance would be required. He said that Board has the authority in the context of a variance application to determine whether a variance is required in the first instance regardless of whether an administrative appeal is filed. He reiterated that both buyers did their due diligence and the town's decision is therefore binding. He commented that in all due respect to Nick Codner, he does not have the authority to overrule the previous determination by the town. He said that the determination by the Town was that this is a continuation of a pre-existing non-conforming use. Chairman Dunn stated that the Board cannot just dismiss any requirement, but can hear the variance request. D. Muller stated that the authority for the Board is found under RSA 674:33 II.

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 they have operated as a daycare for over 15 years. There have been no violations or complaints that they are aware of. This will not threaten the health, safety or welfare of the general public.
- (2) The spirit of the ordinance is observed: because it is related to the first criteria contrary to the public interest.
- (3) Substantial justice is done: because the loss to the applicant outweighs any gain to the public. The town determined that the daycare was pre-existing non-conforming use.
- (4) Values of surrounding properties are not diminished: because it will not affect surrounding property values as it has been there for 15 years without incident.
- (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 building, parking area, and playground is not permissive to the AR-1 zone. The owner has heavily invested in the property keeping it up and only making it better. The daycare has been in the neighborhood for many years and is therefore part of the fabric of the neighborhood. He said that the proposed use is a reasonable one.

Chairman Dunn asked for questions from the Board. S. Brunelle read a letter of support (Exhibit 3) into the record. J. Benard asked how many children at the daycare presently. M. Brown said approximately

75-100. J. Benard asked the hours of operation. M. Brown stated 6:30 a.m. to 6 p.m. J. Benard asked how many employees. M. Brown replied that she has 22 employees.

Chairman Dunn asked for public input.

Jennifer Gray, 42 Mammoth Road, addressed the Board in favor of granting the variance. J. Gray stated that her property abuts the parcel and her driveway enters into their parking lot. She commented that she likes that it closes at a reasonable hour and having a local daycare for local residents is a benefit to the town.

The Board closed public input and began deliberation:

- (1) The variance would not be contrary to the public interest: because it does not alter the essential character of the neighborhood as it has operated here like this for 15 years.
- (2) The spirit of the ordinance would be observed: because it would not threaten any health, safety or welfare concerns to the general public.
- (3) Substantial justice would be done: because the loss to the applicant outweighs any gain to the general public.
- (4) Values of the surrounding properties would not be diminished: because the essential character of the neighborhood would not be changed and there are no complaints from any abutters to date.
- (5) There is not 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 use itself as it is set up to run as a daycare makes the property unique. The proposed use is a reasonable one.

Chairman Dunn asked if they were to add any additions, they would go before the Planning Board. N. Codner suggested that they restrict the hours to the current hours of operation. M. Feig commented that he did not believe that is needed. Chairman Dunn mentioned that what if someone else wanted to do around the clock care and people were dropping off at all hours. D. Muller informed the Board that if you wanted to do an overnight daycare, you would need an additional license from the state. He added that a condition could be no overnight licensure or you would have to come back the Board. The Board made a condition that the hours of operation would be 6 a.m. to 7 p.m. L. Gandia suggested the Board add the days of the week to the hours of operation.

J. Benard made a motion in CASE NO. 07/21/2021-5 to grant the request for a variance from LZO 4.1.2 Use Table to allow a daycare use in the Agricultural-Residential zone which is otherwise prohibited. 40 Mammoth Road, Map 1 Lot 43 Zoned AR-1, Mac & Families, LLC (Owner & Applicant) with the following condition: The hours of operation shall not exceed Monday - Friday from 6 a.m. to 7 p.m.

I. Macarelli seconded the motion.

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

H. CASE NO. 07/21/2021-6: Request for a variance from LZO 7.8.B to encroach 5 feet +/- into the side setback for the construction of a sign, 18 Orchard View Drive, Map 7 Lot 40-12, Zoned C-I, STG Realty Associates, LLC (Owner & Applicant)

S. Brunelle read the case into the record noting the previous zoning. John Cronin, Esq. from Cronin, Bisson & Zalinsky, P.C., 722 Chestnut Street, Manchester, NH, addressed the Board. J. Cronin reviewed the previous variance requests with the Board. He said that they initially wanted three elements of relief, from the size height, area and frontage. He stated that they wanted to take the sign from its existing location and move it from a point that was five feet from Orchard View Drive. He noted that there were concerns from an abutter about the location from Orchard View Drive. He commented that the preference of the Board was to leave the sign in the current location and not move it any closer to Orchard View Drive. He mentioned that he did not believe there was anything picked up in the zoning review when the application was filed or anything in the minutes that reflect the location of the sign in regard to the side street. He remarked that in 1996 there was a site plan that was approved that showed the sign in its particular location. He said that after the variance was granted and the appeal period lapsed the owner engaged the sign company to put the sign up. He noted that they were asked to stop putting the sign up when there was a concern from the town that they needed another variance for the side setback. He said that he did note in the application on why a variance is not requested.

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.
- (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 property values will not be affected.
- (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 its remote location, visibility and the previous hardship. He said that the proposed use is a reasonable one as it has been there for 20 years without incident or concern.

Chairman Dunn asked for questions from the Board. Chairman Dunn asked if the five foot setback from Orchard View Drive was withdrawn the last time he was before the Board. J. Cronin stated that was correct. Chairman Dunn asked if this was five feet from the driveway entrance. J. Cronin replied it is five feet from the site street entrance he believes, but is still not perfectly clear where the concern was. He mentioned that when they filed the application, the zoning review should have called out the need for another variance at the time, but that might have been an oversight as there was no concern in relation

to the drive. He pointed out that during the discussion at the last variance hearing there was no concern about the location of the sign relative to the side street/private drive. He added that there was concern about sight distance and TF Moran provided a letter relative to sight distance, but gave up on moving it closer to Orchard View Drive. Chairman Dunn said that the applicant has changed the sign from what it looked like three months ago and asked if a sign was up. J. Cronin responded that he is not sure if the old sign went back up. Chairman Dunn asked if the footprint was five feet closer than it should have been to the entryway. N. Codner replied that the sign is too close to the side property line. He went on noting that in 1996 they were granted a variance to have the sign less than 15 feet from the front setback, but did not mention anything about the side. He commented that on the site plan from 1996 there was a note that they would need a variance or it would have to be removed, but no variance was requested and the sign has been there ever since. He said that he believes the sign meets the front setback, but not the side setback. He added that if you grant the variance for the side property line, there should be stipulation that it meets the front setback. Chairman Dunn asked again if the sign has been in the same place since 1996. N. Codner answered that is correct. S. Brunelle asked why the side setback would impact the front. N. Codner replied that they want to be clear that if the applicant does not meet the front setback, they would need to come back for a variance request for this. J. Cronin remarked that he takes exception to that condition as they have been before the Board four times now. Chairman Dunn asked if anyone has surveyed the property lines. N. Codner responded that no one has surveyed it and that he was out there and could not find the boundary marker for the front setback, but did see the side property line boundary marker. Chairman Dunn asked if the applicant withdrew the whole variance request in December. J. Cronin reviewed why they withdrew one of the variance requests in December. Chairman Dunn commented that usually it is up to the applicant to make sure there is a boundary survey done to verify they are meeting all the setbacks. He said that he is fine going ahead with this evenings request, but noted that they could be back next month for the front setback. J. Cronin remarked that they provided the Board with drawings back in October, November and December and feels the front setback is resolved. He asked the Board to take a look at the side setback and they will take their chances with the front setback. N. Codner informed the Board that in order for the applicant to get a sign permit, they would need to have a detailed map illustrating how far they are from the front property line, and if they do not meet the front setback, they will not get the sign permit. Chairman Dunn mentioned that the Board has had many instances where the applicants are not providing all the information needed, which makes the process longer and more complicated. J. Cronin commented that he thought the fee submitted with the application was for someone to perform a zoning review of the application to make sure that they are in compliance and all the information that is required has been provided. He went on stating that policies might need to be looked at to provide both the applicant and Board not waste their time.

Chairman Dunn asked for public input and there was none.

The Board closed public input and began deliberation:

- (1) The variance would not be contrary to the public interest: because it does not alter 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.

- (3) Substantial justice would be done: because the loss to the applicant outweighs any gain to the general public.
- (4) Values of the surrounding properties would not be diminished: because the essential character of the neighborhood would not be changed.
- (5) There is not 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 property is unique as it is a corner lot with multiple setbacks. The proposed use is a reasonable one.

J. Benard made a motion in CASE NO. 07/21/2021-6 to grant the request for a variance from LZO 7.8.B to encroach 5 feet +/- into the side setback for the construction of a sign, 18 Orchard View Drive, Map 7 Lot 40-12, Zoned C-I, STG Realty Associates, LLC (Owner & Applicant)

S. Brunelle seconded the motion.

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

VI. Other Business

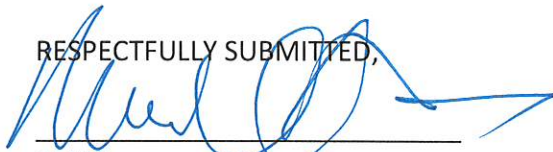
Adjournment:

J. Benard made a motion to adjourn at 10:20 p.m.

S. Brunelle seconded the motion.

The motion was granted, 5-0-0. The meeting adjourned at 10:20 p.m.

RESPECTFULLY SUBMITTED,


CLERK

TYPED AND TRANSCRIBED BY Beth Morrison, Recording Secretary.

APPROVED (X) WITH A MOTION MADE BY S. Brunelle, SECONDED BY J. Macorelli, 5 - 0 - 0.

EX 1

ZONING BOARD OF ADJUSTMENT
50 Nashua Road, Suite 100
Londonderry, NH 03053

DATE: APRIL 19, 2006

CASE NO.: 4/19/2006-1

APPLICANT: SEVEN NASHUA ROAD, LLC
126 WEST BROADWAY
DERRY, NH 03038

LOCATION: 7 NASHUA ROAD, 10-129, C-II

BOARD MEMBERS PRESENT: STEPHEN LEE, ACTING CHAIR
MIKE BROWN, VOTING MEMBER
YVES STEGER, VOTING ALTERNATE
BARBARA DILORENZO, VOTING ALTERNATE
LARRY O'SULLIVAN, CLERK

REQUEST: AREA VARIANCE TO LOCATE A FREE STANDING SIGN FOUR (4) FEET FROM NASHUA ROAD AND TWO (2) FEET FROM ELA AVENUE WHERE FIFTEEN (15) FEET TO A PROPERTY LINE IS REQUIRED.

PRESENTATION: Case No. 4/19/2006-1 was read into the record with six previous cases listed.
Clerk Larry O'Sullivan read Exhibit "A," a letter in favor from an abutter.

STEPHEN LEE: And who will be presenting tonight? If you could state your name and address for the record, please?

MILAD SASSIN: Good evening. My name is Milad Sassin. I'm the owner of 7 Nashua Road, LLC.

STEPHEN LEE: Okay.

JOHN CONNORS: I'm John Connors from Batten Brothers signs. We would be the sign manufacturer.

STEPHEN LEE: Okay. And why don't you just give us an overview of what, I know we were talking about this last month and I think you kind of went back and retooled the presentation. Why don't you just tell us what you would like to do.

JOHN CONNORS: Basically, in a nutshell, there's an existing Gulf sign that is, call it forty (40) square feet for the sake of argument. We'd like to remove the round Gulf sign from the top of the pole and replace it with a rectangular sign which is thirty two (32) square feet. We would like to continue the use of the existing pole in its present location. We had explored the different options of relocating it on the property to meet the zoning but, in any case, it seems to put it in the middle of a driveway at either end of the property.

STEPHEN LEE: Mm-hmm.

JOHN CONNORS: So, we would like just to replace the existing sign with a sign that simply says, 'Route 102 Gas' and remain, leave the existing pole and price sign remaining.

STEPHEN LEE: Okay. So there's, the actual square footage is decreasing eight (8) square feet, approximately?

JOHN CONNORS: Yes.

STEPHEN LEE: The height of the sign off the ground, is that changing?

JOHN CONNORS: It will be lower than the, it'll be two (2) feet shorter than it is currently.

STEPHEN LEE: It'll be shorter. So, the bottom of the sign will be two (2) feet closer to the ground?

JOHN CONNORS: No, the top of the sign, being that the original sign was six (6) foot tall, the new sign is four (4) foot tall.

STEPHEN LEE: Oh, okay, so the bottom stays the same.

JOHN CONNORS: Two (2) foot shorter in overall height but leaving the pole the same height.

STEPHEN LEE: Okay.

LARRY O'SULLIVAN: Is the current sign double illuminated as well?

JOHN CONNORS: Yes.

STEPHEN LEE: Interior?

JOHN CONNORS: Fluorescent lights lit from within.

STEPHEN LEE: Okay. Let's see. I don't see...so we don't have a written out...

JAYE TROTTIER: Yeah, you do.

STEPHEN LEE: Oh, we do?

JAYE TROTTIER: It's this...

MIKE BROWN: Yeah, it's this big, big thing.

STEPHEN LEE: Oh, it's this one? Oh.

MIKE BROWN: The answers are in, you know...

STEPHEN LEE: Proclamation.

MIKE BROWN: Very fine answers, yeah.

STEPHEN LEE: Okay. Alright, I guess, I'm sorry, are there questions from the Board before we have them read the five (5) points? Mike?

MIKE BROWN: Yeah, just to, just to confirm what we just heard. The overall square footage is decreasing and the height is decreasing, right?

JOHN CONNORS: Correct.

MIKE BROWN: Okay. And you're just going where the existing sign is, using the existing pole.

JOHN CONNORS: Yes.

MIKE BROWN: Okay.

LARRY O'SULLIVAN: Line of sight, there's no effect on a lowering of any part of that sign?

JOHN CONNORS: No.

STEPHEN LEE: 'Cause it's not really lowering the bottom of it.

LARRY O'SULLIVAN: Right.

STEPHEN LEE: Yeah.

MIKE BROWN: The Gulf rounded was higher, versus the square. We kinda all know this corner already.

STEPHEN LEE: Right.

LARRY O'SULLIVAN: The notorious corner.

MIKE BROWN: Yeah. I don't have any more questions right now.

STEPHEN LEE: Anyone else?

LARRY O'SULLIVAN: All set, thank you.

STEPHEN LEE: If you would go through your points of law for us now?

JOHN CONNORS: Let's see, where would you like me to start?

STEPHEN LEE: If you wanna run through all, all of the points, just at the beginning.

JOHN CONNORS: Basically, a Variance is requested from Section 3.11.2.4.1.1.1 of the zoning ordinance to erect a sign nearer the lot lines where a fifteen (15) foot setback requirement would be allowed. The proposed would not diminish the surrounding property values. The location's been branded a Gulf Oil for many years. The existing ID sign is currently located on the northwest corner of the property and alteration of the sign renders it preexisting, nonconforming due to its location on the property. The required fifteen (15) foot setback would place the sign directly in the flow of traffic, blocking two entrances to the sight, causing a dangerous

situation for vehicles entering and exiting from Route 102. The proposed location for the new sign, what, am I reading the wrong one?

STEPHEN LEE: I think I'm following you, you're on the third paragraph at this point?

JOHN CONNORS: Yup. Oh, I think this is the wrong...I think I have the wrong form here.

MIKE BROWN: Do you have this big copy that we have?

JOHN CONNORS: No.

MIKE BROWN: Okay.

JOHN CONNORS: Nope, but I'm wondering if I'm reading from last month's. That might be the problem. Yup, I'm sorry. I'm reading from wrong one.

STEPHEN LEE: Okay.

JOHN CONNORS: We're seeking to remove the existing circular cabinet currently housing the Gulf brand logo, having a four (4) foot setback from the front and two (2) foot from the side. We're seeking to remove the existing cabinet currently housing the Gulf Oil brand logo, replace it with a new rectangular cabinet which will be center mounted on the existing pole to reflect the change to independent branding and a change of ownership. The new sign will conform to all other sections of the law with respect to size and overall height. The alteration of the existing sign renders it preexisting, nonconforming due to its location on the property. The required fifteen (15) foot setback would replace, would place the sign directly in the flow of traffic, blocking two (2) entrances to the site, causing a dangerous situation for vehicles entering and exiting from Route 102. The proposed use would not diminish from surrounding property values by the fact that there is an ID sign already existing at this location. We're proposing to replace an old sign, which is somewhat of an eye sore, with a new, more attractive, contemporary type of sign which will meet all other zoning requirements. Granting the Variance would not be contrary to the public interest because given the traditional commercial nature of the location and the importance of a primary accessory sign to any business, a sign that is not easily visible when viewed from the public way near the public right of way serves neither the public nor private interests. It is in the public interest to provide the signs that are visible from a safe distance, given their location in the community, in the zoning district. Visible signs, properly designed, can improve public safety and convenience by properly identifying and directing the public to business locations provided by local zoning. Furthermore, it's in the public interest to provide a visible sign to assist consumers in safely identifying the site from a numbered State highway. Granting the relief requested does not create any substantial detriment to the public good, given the existing location and the sight lines to the sign. The requested alterations will, in no manner, alter the visual imagery of the public way, nor, given the sign location, visually intrude on the residential zoning boundary, nearly two hundred (200) feet away. Special conditions exist that such literal enforcement of the ordinance results in unnecessary hardship. The fifteen (15) foot setback in either corner of the property would place the sign in the flow of traffic for vehicles entering and exiting from the site. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue such as relocating the sign due to the smaller size of the lot and the literal enforcement of the code creating a signing deficiency in that the sign would not be detected in time for drivers to find the business, to safely respond under existing roadway configurations and at designated speeds. The ordinance as written would reduce the adequate legibility, readability and conspicuity, thereby compromising traffic safety as well as the financial hardship created by the lack of our immediate communication needs to advertise our product in a competitive environment. There is a benefit that the sign will bring to the land use planning scheme. We're in an older building and seeking to renovate. The proposed sign will contribute to revitalization of the district as a whole,

thereby promoting a healthy tax base. A well designed, optimally visible and appropriately placed sign fosters a partnership with the municipality and the chance to create financial opportunities for both the business and the community. The requested relief does not derogate from the intent and purpose of the bylaw, which is to reduce clutter along Route 102 by creating uniform controls for signage. It's very clear that the bylaw anticipates, from time to time, that the established sign requirements may not be consistent with the intent of the bylaw and the requirements may create an unintended, unnecessary hardship to private interests in particular circumstances. The bylaw in Section 3.11.2.4.1.1.1 clearly establishes minimal dimensional setbacks. The application encroaches slightly on these dimensional requirements. However, Section 3.1.1.2.1.3 (*actually 3.11.2.1.3 in the written application*) says the sign will not interfere with traffic safety in the area. The public interest is best served by providing an unobtrusive, more visible sign to assist the public and safely locating the establishment from a numbered highway.

STEPHEN LEE: Okay. Any questions from the Board? Anyone speaking in favor of the request? Ma'am? Would you like to come up and state your name.

MARIE BROWNELL: My name's Marie Brownell. I own Brownell Insurance Center that is adjacent to the... We have no objection to the sign being where it is and we're delighted that it could even be a little bit smaller, so we would like to vote in favor with the stipulation that they do not make it any larger than they tell you.

STEPHEN LEE: Alright, thank you.

MARIE BROWNELL: Thank you.

STEPHEN LEE: Anyone else speaking in favor? Anyone opposed? Okay, I'll bring it back to the Board.

LARRY O'SULLIVAN: I think we need to answer Miss Brownell's comment about the size. If it's presented as a four (4) by eight (8) and they put up something larger than a four (4) by eight (8), they'll be required to take it down.

MARIE BROWNELL: Okay.

STEPHEN LEE: Jim, do you have any...or Frank? Any comments on...? In that case, I guess we'll take it under advisement and go to deliberation.

LARRY O'SULLIVAN: Bring it back to the Board?

DELIBERATIONS:

MIKE BROWN: All set?

LARRY O'SULLIVAN: Yup. I think we had enough of a discussion about this last month and I think we all came to the, or the people who were discussing it last month, anyway, came to the opinion that it is making it a little better and there's gonna be no detracting from the line of sight, which is really what the concern is there and I think we should just move this right along.

MIKE BROWN: Was the, I wasn't here, was the previous application, that was the one that was gonna affect the Brownell's...?

(overlapping comments)

STEPHEN LEE: Right....

LARRY O'SULLIVAN: Yes, it was closer to the opposite side as opposed to where this one is today.

MIKE BROWN: I think that's a good move on the applicant's part.

STEPHEN LEE: Yeah.

YVES STEGER: Mm-hmm.

STEPHEN LEE: Any questions, comments, or...? Alright...

LARRY O'SULLIVAN: I'd like to make a motion that we accept the Variance, the Area, now is this...? This is an Area Variance, isn't it?

MIKE BROWN: Yes.

STEPHEN LEE: Yes, it is.

LARRY O'SULLIVAN: ...for 7 Nashua Road as presented, having met all the requirements requested.

STEPHEN LEE: Okay.

YVES STEGER: I second that.

STEPHEN LEE: Alright, those in favor?

ALL: Aye.

STEPHEN LEE: It passes, five (5), zero (0).

RESULT: THE MOTION TO APPROVE THE AREA VARIANCE WAS GRANTED, 5-0-0.

RESPECTFULLY SUBMITTED,

LARRY O'SULLIVAN, CLERK

TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

APPROVED MAY 17, 2006 WITH A MOTION MADE BY LARRY O'SULLIVAN, SECONDED BY MIKE BROWN AND APPROVED 4-0-1 (MARK OFFICER ABSTAINED AS HE HAD NOT ATTENDED THE APRIL 19, 2006 MEETING.

EX. 2

7/9/21

Londonderry ZBA
268B Mammoth Road
Londonderry, NH 03053

RE: Letter of Support for Renegade's Pub

To whom it may concern,

I write this letter to advocate my support in favor of the Londonderry ZBA *GRANTING* the two Variances sought by Renegade's Pub.

The owners/operators of this establishment are hardworking members of this community and have a successful business that generates jobs and supports the local economy.

Not only are the owners known for giving back to this wonderful community in many different avenues, but they have transformed a tired business into a thriving location. As the property owner I am glad to have the Renegades team and together we will continue to reinvest in the property.


What Renegade's is asking for from the ZBA will enhance the property, help a local business and benefit people of this community with a convenient and popular source of food and drink.

What they are asking for helps them and hurts no one!

I do implore this ZBA to kindly grant these two Variances and help a good business thrive and grow, at a time when so many businesses are struggling as result of the obstacles that we have all dealt with, indeed are still dealing with, from the events of this past year and half.

I do thank you for your care and attention to this matter.

Very truly yours,



Robert Rivard
Property owner, 103 Nashua Rd, Londonderry, NH

7/12/21

Londonderry ZBA
268B Mammoth Road
Londonderry, NH 03053

RE: Letter of Support for Renegade's Pub

To whom it may concern,

I write this letter to advocate my support in favor of the Londonderry ZBA *GRANTING* the two Variances sought by Renegade's Pub.

The owners/operators of this establishment are hardworking members of this community and have a successful business that generates jobs and supports the local economy.

As the oldest business owner in town and someone who has a direct history with the property I can gladly say the property has only improved and provides an area that many patrons within the community clearly want.

What Renegade's is asking for from the ZBA is only going to enhance their product and give the people of this community what they want.

What they are asking for helps them and hurts no one!

I do implore this ZBA to kindly grant these two Variances and help a good businesses thrive and grow, as opposed to, hurting another business at a time when so many are struggling as result of the obstacles that we have all dealt with, indeed are still dealing with, from the events of this past year and half.

I do thank you for your care and attention to this matter.

Very truly yours,



Christopher George

Mr. Steer



[date] 7/21/21

Londonderry ZBA
268B Mammoth Road
Londonderry, NH 03053

RE: Letter of Support for Renegade's Pub

To whom it may concern,

I write this letter to advocate my support in favor of the Londonderry ZBA *GRANTING* the two Variances sought by Renegade's Pub.

The owner/operators of this establishment are hardworking members of this community and have a successful business that generates jobs and supports the local economy.

Moreover, there owner/operators are known for giving back to this community in that they donate to local sports clubs and lend their support to other endeavors in town.

What Renegade's is asking for from the ZBA is only going to enhance their product and give the people of this community what they want.

What they are asking for helps them and hurts no one!

I do implore this ZBA to kindly grant these two Variances and help a good businesses thrive and grow, as opposed to, hurting another business at a time when so many are struggling as result of the obstacles that we have all dealt with, indeed are still dealing with, from the events of this past year and half.

I do thank you for your care and attention to this matter.

Very truly yours,

Sandra Vaudreuil Sandra
[name and address] Vaudreuil
3 Mohawk Dr
Londonderry, NH
03053

[date] 7/21/21

Londonderry ZBA
268B Mammoth Road
Londonderry, NH 03053

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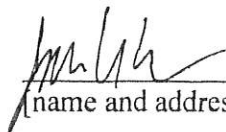
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 8 Mohawk Dr. Londonderry, NH
[name and address]

Joseph LaRose

03051

[date] 7/21/21

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268B Mammoth Road
Londonderry, NH 03053

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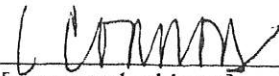
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[name and address]

ELIZABETH CONNORS

3 Mottawh Dr.

L'BERRY NH 03053

[date] 7 - 21 - 21

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268B Mammoth Road
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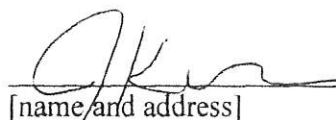
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[name and address]

JENN KRIEGER

3 MOHAWK DR
L'DERRY, NH 03053

[date]

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268B Mammoth Road
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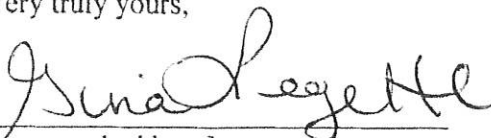
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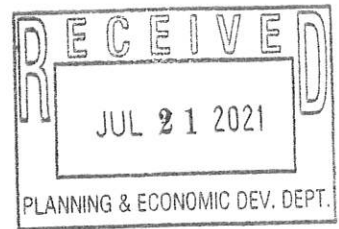
Gina Legette

1 Button Dr

Londonderry NH

03053

EX. 3



Town of Londonderry
Zoning Board o Adjustment
268B Mammoth Road
Londonderry, NH 03053

Tom and Barbara Fucarile
3 Woodland Drive
Londonderry, NH 033053

Case Number 07/21/1021-05

To Who it May Concern;

We are Tom and Barbara Fucarile and live at 3 Woodland Drive .We are adjacent abutters to 40 Mammoth Rd (Creative Little Angels). We are residents of Londonderry for the past 18 years and next door neighbors to The Creative Little Angels Daycare for the entire 16 years of their existence. During this time we can offer the opinion that our town is lucky to have such a professionally run and caring operation that looks after the youth of our community. They provide a safe, dependable day care and organized setting for the local families in our town. We feel the need is great for working families to have a local service to help their daily lives.

We both, very much request that a variance be granted to this daycare at this location.

Regards,

Tom and Barbara Fucarile

Tom Fucarile
Barbara Fucarile