

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

MINUTES FROM 10/20/21 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; Brendan O'Brien, member; Suzanne Brunelle, member; Bill Berardino, member; Irene Macarelli, alternate member; and Mitch Feig, alternate member. Also, participating was Laura Gandia, Associate Planner; Nick Codner, Chief Building Inspector; and Beth Morrison, Recording Secretary.

I. APPROVAL OF MINUTES

J. Benard made a motion to accept the September 15, 2021, minutes as presented.

The motion was seconded by S. Brunelle

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

II. REPORT BY TOWN COUNCIL – None.

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

1. CASE NO. 10/20/2021-1: Request for three variances from (1) LZO 7.8.B.1 to alter an existing non-conforming sign without losing its preexisting status; (2) LZO 7.6.D.3.b.ii to allow three wall signs where only two are permitted; and (3) LZO 7.6.D.3.b.i to allow 75.78 SF of signage for wall signs where only 50 SF are allowed, 66 Nashua Road, Map 7 Lot 40-4, Zoned C-I, Midwest Convenience/Sunoco (Applicant) and The Matarozzo Family Trust (Applicant)
2. CASE NO. 10/20/2021-2: Request for a variance from LZO 4.2.1.3.C.2 to encroach 6.5 feet into the side setback for the construction of a two story garage, 23 Mammoth Road, Map 1 Lot 56-1, Zoned AR-1, Felipe & Kirsten Figueiredo (Owners & Applicants)
3. CASE NO. 10/20/2021-3: Request for a variance from LZO 7.6.3.b.i for a 50 SF wall sign where only 40 SF are allowed, Four Orchard View Drive, Map 7 Lot 40-2, Zoned C-I, Matthew Goyette (Applicant) and Vernco Apple, LLC (Owner)

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. 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) - continued from the September 15, 2021 meeting

M. Feig read the case into the record. S. Brunelle and B. O'Brien recused themselves from this case. Chairman Dunn appointed I. Macarelli and M. Feig as voting members for this case. Christopher Drescher, Esq. from Cronin, Bisson & Zalinsky, P.C., 722 Chestnut Street, Manchester, NH, and Greg Ryan, owner addressed the Board. C. Drescher informed the Board that there is an issue with a 30-feet by 50-feet patio area, that has been in existence since the building was constructed. He pointed out that the applicant added an extension of approximately 8-feet by 12-feet concrete floor with a wall that is about 2-feet to 3-feet abutting the sidewalk parking area. He said that by doing this they reduced the required green buffer by about 1%, when the requirement is 33% in the zoning ordinance. He said that the property is non-existing, non-conforming and the green area was already deficient of the required 33%, noting that their engineer said that had 12% green buffer before, and now with the patio, it is reduced to 11%. He pointed out that they are here to right a wrong, as they should have come before the Board before constructing the patio, but are here to rectify the situation so they can move forward and work with the Planning Department. He said that this does not add any seats to the restaurant.

He then read the criteria for granting the variance:

- (1) The granting of the variance is not contrary to the public interest: because it will not alter the essential character of the neighborhood. He added that they believe this is an improvement. He said that Brian Johnson, Chief of Fire Prevention, has indicated that this is an improvement to the safety as well.
- (2) The spirit of the ordinance is observed: because it will not threaten the health, safety or welfare of the general public. He added that this enhances safety and aesthetics.
- (3) Substantial justice is done: because the loss to the applicant would outweigh any gain to the public. He said that the public gains nothing from a denial.
- (4) Values of surrounding properties are not diminished: because he contends that this is an improvement to what was there before.
- (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 a non-conforming lot wherein there never was a sufficient buffer in place to begin with. He said that they have not changed anything significantly, therefore, it would not frustrate the purpose of the ordinance. He said that the proposed use is a reasonable one.

Chairman Dunn asked for questions from the Board. J. Benard asked if the plastic walls come down that are seen in the before pictures. C. Drescher replied that they do, retract up and down. J. Benard commented that before the walls, the patrons could come directly into the patio area and now they have to come in the front door, which she thought might help with crowd control. She asked how high the wall is. C. Drescher replied two and three feet. B. Berardino asked if there would be seating allowed on

the patio, as he is concerned about safety if people are allowed to sit outside there. G. Ryan answered that before this they did not have any wall and said that they have talked about people playing music out there or using it as a waiting room. He added that they just wanted to spread out the number of seats they have due to COVID concerns. B. Berardino voiced his opinion, that that wall is not going into stop a car from going through it and this is a public safety concern. C. Drescher contended that this is safer than what was there before. He said that they can bring this discussion to the Planning Department and discuss the occupancy of this space. Chairman Dunn asked when the addition was built. N. Codner replied that a permit was pulled on September 1, 2020, and it was permitted for the roof only, which was granted in October of 2020. Chairman Dunn asked if the patio was underneath the roof before, which would have encroached into the green space. C. Drescher stated that he thought the floor of the patio had always been there. G. Ryan noted that the patio was there when they bought it from Café Teresa. Chairman Dunn asked if this was looked at or addressed when the permit for the addition was pulled. N. Codner commented that they went before the Planning Board and discussed about allowing a roof to be built over the patio. He said that Ann Chiampa, Planning Board member, noted that they should not expand past the existing patio. He stated that Richard Canuel, who was the Chief Building Inspector at the time, granted them a permit to construct a roof over the existing patio. Chairman Dunn asked about the discrepancy between 33% and 12% of green buffer space. C. Drescher replied that it was his understanding that based on how it was built, they only had 12% of vegetation around the building. M. Feig asked if people stood outside on the concrete patio before. G. Ryan replied that is correct. J. Benard asked N. Codner if they look at the height of the wall when dealing with safety. N. Codner replied that they were alerted by B. Johnson that this was built after the fact. He pointed out that when he went out to view it, they were told to stop all construction and come before the Board, as they were not allowed to expand the patio. J. Benard asked if there is a height requirement for this type of wall if they are granted the variance. N. Codner answered that he did not believe so for this type of wall, but they may be required to put up some kind of fencing in front of this to protect it from cars. B. Berardino mentioned a guardrail could be placed in front to protect the patrons from a car. Chairman Dunn asked if they have to go before the Planning Board if the variance is granted. N. Codner replied that they cannot go before the Planning Board for site plan review if the variance is not granted. Chairman Dunn commented that it has all been constructed, so is there a site plan to be evaluated. N. Codner explained that they are not in compliance with site plan regulations. He said that they were told if they expanded, they would have to bring their site plan into compliance, which cannot be done with violations. Chairman Dunn asked if they would be before the Board if they had not gone past the existing patio. N. Codner replied that if they expand their use, they have to bring the site plan into compliance. Chairman Dunn asked for a clearer picture as to what triggered the review, such as the addition or the fact that they covered it. N. Codner reviewed that when they came to a pre-construction meeting, they were advised that if they were to expand in any way, they do not have enough parking and would need site plan approval. C. Drescher said that if the variances are granted, then they are back to the Planning Board for site plan review. Chairman Dunn voiced his displeasure that it seems like they were aware of this when the permit for the roof was applied for.

Chairman Dunn asked for public input. M. Feig read letters of support (Exhibit 1), of which there are seven, which are attached hereto.

Chairman Dunn brought the discussion back to the Board as there was no further public input. J Benard asked if they would be applying to increase their occupancy. C. Drescher replied that they have to comply

with a liquor license and therefore would not. J. Benard asked if there are people with food and drinks allowed on the patio. G. Ryan replied that they are allowed to sit where the high-top table and chairs are. J. Benard asked if what the restaurant serves and their use is the same before they put the roof on. C. Drescher answered that is correct. B. Berardino asked if they had a tent first. G. Ryan replied that they did, noting it was an exorbitant expense and they had to put up jersey barriers around it, temporary lighting and emergency lighting for the exits. B. Berardino asked if this all came about because of COVID. G. Ryan replied that it was a factor. Chairman Dunn asked if this variance will still be valid if they are denied by the Planning Board. N. Codner replied that the patio, itself, does not add to the parking calculations as it is outdoors. Chairman Dunn asked if the roof makes a difference. N. Codner stated that is what the next variance request is for. B. Berardino noted that the parking spots service Dominos as well. G. Ryan noted that they took over the Café Teresa space three years ago and they have done a lot to the property. He said that he believes they have a great relationship with everyone in town and this was done for aesthetics and spacing. He noted that they understand the liquor license very well and they cannot add any more seats. M. Feig asked if the green that was removed, is what they are viewing in the screen. G. Ryan replied that is correct. M. Feig asked if there was ever a discussion about the safety of the stone wall. G. Ryan answered that they did not, but believes it is better than what was there before. He added that he does not think a guardrail is aesthetically pleasing, but they are happy to accommodate. L. Gandia commented that the Board can put conditions on safety and recommended that whatever conditions the Zoning Board places that there should be some flexibility for B. Johnson and the Planning Board upon their review.

The Board closed public input and began deliberations. J. Benard gave her opinion, that the applicant went a step further than a tent with the wall and roof for the safety of their patrons. She noted that the applicant should have come before the Board before doing any of this, but they are here now looking to rectify the situation. She added that she thought this all came about because of COVID with restaurants trying to stay open and utilize outdoor seating if they could. Chairman Dunn remarked that his concern is that something that was allowed for temporary reasons, such as COVID, should not be mistaken as permanent. He added that now there is not any room for anyone to walk in front of the cars, as that space was taken away with the patio addition. M. Feig voiced his opinion, that there are safety issues and asked how this should be addressed. L. Gandia stated that the Board can require the applicant to implement certain safety measures to address the ZBA's concerns and she also noted that the applicant will be going before the Planning Board for a full site plan review. J. Benard asked if the plants that were there before constitute the green. N. Codner replied that the green space is also for permeable surfaces, noting that this is not permeable any more. He brought up the existing site plan (Exhibit 2) to the Board for their review.

- (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.
- (3) Substantial justice would be done: because the loss to the applicant outweighs any gain to the public.
- (4) Values of the surrounding properties would not be diminished: because it does not alter the essential character of the neighborhood.

(5) There is no fair and substantial relationship that exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: because the property is unique as it is non-conforming, close to the street, corner lot. The proposed use is a reasonable one.

Chairman Dunn asked if there are regulations on what size or shape a wall or bollard would have to be if this was regarding a propane tank. N. Codner replied that the regulations on gas tanks state they have to be protected by bollards, but do not go into any specifics. He went on stating that for this case, they would have to have it designed by an engineer who could give their professional opinion on the wall. J. Benard asked if the Planning Board would enact this review. N. Codner answered that the Planning Board would explore this. J. Benard commented that it is on the record, that all Board members are concerned about safety. She asked if they include the comment in their motion. N. Codner replied that the Board can put this in their motion, but reminded the Board that this case is about the amount of green space. J. Benard said that is true, but would want some condition related to safety. L. Gandia suggested the Board further discuss the criteria relating to safety as there appears to be some concerns that are not being fully addressed. She noted that if the Board does have safety concerns that are not properly addressed in attaching conditions, then in theory the applicant has failed to satisfy those criteria. J. Benard mentioned that if they came before the Board before they constructed it, she believes that she would answer the same. Chairman Dunn asked if this would have gone before the Planning Board anyways because of the structure they constructed. N. Codner replied that they were instructed if they were going to expand their use, they would have to go before the Planning Board to bring the site plan into compliance. J. Benard asked if the Planning Board granted them permission to construct the roof. N. Codner responded that they went before the Planning Board conceptually, where they were advised not to expand beyond the existing concrete patio. J. Benard interjected that they did not expand beyond the patio. N. Codner stated that they expanded with the construction of the addition to the patio with the wall. M. Feig offered that they could have the applicant come back with more engineering plans, specifically related to the wall. J. Benard said that she is not qualified to look at the plans and that is why they rely on the Planning Board and Fire Department. Chairman Dunn pointed out that the Board has requested this before on similar cases, but he feels that this is too late at this point. B. Berardino said that if they left the wall alone, they would not be before the Board at this point. Chairman Dunn stated that is correct. M. Feig asked if the Board could ask for more engineering. L. Gandia replied that the Board could continue the case and ask the applicant to provide engineering analysis as far as safety, the structure of the wall, impact resistance, etc. Chairman Dunn asked if the Board would like some more information. The Board's consensus was to provide more documentation on the safety of the wall.

The Board came out of deliberation. Chairman Dunn asked for engineering information on the wall. C. Drescher replied that they have an engineer and will ask for more information. He noted that they will have Fire Department review during the site plan process. Chairman Dunn asked if the applicant was clear on what the Board was asking. C. Drescher replied that the Board would like a safety analysis of what has been built. L. Gandia asked if they would like to continue the request for one month or if they might need more time. C. Drescher replied that he would talk to his engineer and get back to L. Gandia if they need more than a month.

J. Benard made a motion in CASE NO. 07/21/2021-2 to continue 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 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) application to November 17, 2021, to allow time for the applicant to produce further engineering analyses/review/specifications on the wall and safety concerns that have been discussed the hearing (structural integrity, crash & impact resistance, etc.).

M. Feig seconded the motion.

The motion was granted, 5-0-0. The applicant's case was continued until November 17, 2021.

B. 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) – continued from the September 15, 2021 meeting

M. Feig read the case into the record. S. Brunelle and B. O'Brien recused themselves from this case. Chairman Dunn made I. Macarelli and M. Feig voting members for this case. Christopher Drescher, Esq. from Cronin, Bisson & Zalinsky, P.C., 722 Chestnut Street, Manchester, NH, and Greg Ryan, owner and applicant addressed the Board. C. Drescher requested this case be continued because the first case was.

J. Benard made a motion in CASE NO. 07/21/2021-3 to continue the 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) until November 17, 2021

M. Feig seconded the motion.

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

C. CASE NO. 10/20/2021-1: Request for three variances from (1) LZO 7.8.B.1 to alter an existing non-conforming sign without losing its preexisting status; (2) LZO 7.6.D.3.b.ii to allow three wall signs where only two are permitted; and (3) LZO 7.6.D.3.b.i to allow 75.78 SF of signage for wall signs where only 50 SF are allowed, 66 Nashua Road, Map 7 Lot 40-4, Zoned C-I, Midwest Convenience/Sunoco (Applicant) and The Matarozzo Family Trust (Applicant)

B. O'Brien and S. Brunelle came back to the Board. B. O'Brien read the case into the record. Carolyn Parker, from 3 Lorion Avenue, Worcester, MA, addressed the Board. C. Parker told the Board that she was here before them in 2019 when this location wanted LED price changers, and now the gas station has changed ownership to Sunoco from Speedway. She said that it is the same sign, same location and same setback when it was before the Board two years ago. She said that they are choosing to go this route, as it is a pre-existing, non-conforming sign, and they do not want to go for a variance to the setback, as it would be in the parking lot.

She then read the criteria for granting the variance:

- (1) The granting of the variance is not contrary to the public interest: because the sign is a pre-existing sign that has been in this location for over 40 years. She said they are proposing to rebrand the existing sign from Speedway to Sunoco.
- (2) The spirit of the ordinance is observed: because they are not changing anything about the sign that has not been previously approved by the Board, just the brand of gasoline and the color of the sign faces.
- (3) Substantial justice is done: because the sign will be in the exact same location, height and square footage.
- (4) Values of surrounding properties are not diminished: because there is no decrease in value as they are only rebranding a sign.
- (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 setback requirement would place the sign in the middle of the parking lot as it is further back from the road. She said that the proposed use is a reasonable one.

Chairman Dunn asked for questions from the Board. S. Brunelle asked for the special conditions that make this property unique to meet criteria number five. C. Parker replied that the property is unique as it is farther back from the road and the sign would have to be in the middle of the parking lot to comply with the 50-foot setback. Chairman Dunn asked if the name changes again, do they need another variance. N. Codner replied that they would. C. Parker said that they could also apply a variance to the setback. Chairman Dunn said that the old existing sign was cleaner in his opinion and by adding the Rebel brand, it looks busy and cluttered.

Chairman Dunn asked for public input.

Matt Goyette, Brackett Road, Rye, NH addressed the Board in favor of the variance. M. Goyette said that it seems favorable to him, as they are just swapping the sign out.

Chairman Dunn closed public input and brought the discussion back to the Board. B. Berardino said that numbers look smaller. C. Parker reviewed the sign, noting that she wanted another Sunoco on the other side of the canopy but was denied because the sign would really be 90 SF and not 23.7 SF she requested. She noted that she might have to withdraw the variance for the Rebel sign, as she does not have a second sign approved by the Board; therefore, she cannot ask for a third sign. Chairman Dunn asked if the whole canopy is considered a sign. N. Codner replied that when a sign is incorporated into a canopy then it is included in the square footage and noted the section of LZO to be 7.5.b. Chairman Dunn asked if this was a new revision. N. Codner replied it was not. He gave an example of a canopy that is painted all white with a different color sign, which is completely differentiated from the rest of the face, the sign would be measured by itself, but if the sign is incorporated or blends into the canopy face then the whole canopy design would calculate the square footage. M. Feig stated that they are just changing copy. Chairman Dunn stated that there is nowhere else to put it and there is no way that they can conform. He noted that there are instances where they can make the sign conform.

The Board closed public input and began deliberation on LZO 7.8.B.1 to alter an existing non-conforming sign without losing its preexisting status:

- (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 public.
- (4) Values of the surrounding properties would not be diminished: because they essential character of the neighborhood does not change.
- (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 a unique configuration. The proposed use is a reasonable one.

J. Benard made a motion in CASE NO. 10/20/2021-1 to grant the request from LZO 7.8.B.1 to alter an existing non-conforming sign without losing its preexisting status, 66 Nashua Road, Map 7 Lot 40-4, Zoned C-I, Midwest Convenience/Sunoco (Applicant) and The Matarozzo Family Trust (Applicant)

B. O'Brien seconded the motion.

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

C. Parker requested to withdraw the other two variances requests without prejudice as she found out that she needs to clarify with the Building Department about the second sign. L. Gandia suggested that she could continue it, to save money. C. Parker stated that she felt it would be best to withdraw without prejudice.

D. CASE NO. 10/20/2021-2: Request for a variance from LZO 4.2.1.3.C.2 to encroach 6.5 feet into the side setback for the construction of a two story garage, 23 Mammoth Road, Map 1 Lot 56-1, Zoned AR-1, Felipe & Kirsten Figueiredo (Owners & Applicants)

B. O'Brien read the case into the record. Felipe Figueiredo, owner at 23 Mammoth Road, addressed the Board.

He then read the criteria for granting the variance:

- (1) The granting of the variance is not contrary to the public interest: because the addition of the proposed garage will not add any noise, head lights facing their building, block air or sunlight to the residents at the condominium association. He said that the garage will be constructed in keeping to the character of the neighborhood.
- (2) The spirit of the ordinance is observed: because it will not be overcrowded and the existing natural buffer on his side would remain which would protect the privacy to both sides.

- (3) Substantial justice is done: because the approval of his variance request does not pose a loss to the general public such as a denial to my variance request does not grant the general public any gain.
- (4) Values of surrounding properties are not diminished: because seven of the eight abutting properties on his street have garages so therefore it would be bringing up his property to the level of his neighbors.
- (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 the grading makes the front door is 10-feet higher than the existing driveway and it would be unnecessary hardship to change the driveway to the other side of the property with a large amount of land disturbance. He added that the septic tank and leach field run across the front of the yard. He said that the proposed use is a reasonable one.

Chairman Dunn asked for questions from the Board. He asked who owns the natural greenery buffer, specifically the evergreen trees. F. Figueiredo commented that the arbor vitae were planted two years ago to help with the headlights, but he realized that it is not his property. Chairman Dunn asked if the garage is underneath now. F. Figueiredo replied that it is a carport and it not a complete wall and does not prevent bad weather from coming in. S. Brunelle asked if the fence was his neighbors. F. Figueiredo replied that it his fence. S. Brunelle noted that there is a letter from the condominium association that states they have wells in the common area next to his house. M. Feig asked if the building of the garage would pose an environmental hazard. F. Figueiredo stated that the wells are behind the back property where there is an open field and reviewed the aerial photo on the screen with the Board. Chairman Dunn asked if the mud room could be 10-feet to comply with the setback. F. Figueiredo responded that there is a ten-foot grade to the driveway, which is approximately 17 steps noting that the mud room width is 16-feet to allow for a landing at the bottom of the steps. B. O'Brien asked if the size of the garage was picked for a specific reason. F. Figueiredo replied that the garage door is 10-feet because his truck is 9-feet wide with the mirrors and he cannot get in regular garage doors, which are 8-feet.

Chairman Dunn asked for public input. B. O'Brien read the letter in opposition (Exhibit3), into the record, which is attached hereto.

Chairman Dunn brought the discussion back to the Board as there was no further public input. F. Figueiredo said that he is almost certain that the wells are back farther in the open field and their septic is closer to the garage. J. Benard asked if N. Codner could verify the wells. N. Codner replied that he could research it and get back to the Board. Chairman Dunn asked if there was no setback from wells as a general rule. N. Codner replied that with a new development the rule is to have the well 75-feet from the property line or road. J. Benard voiced her concern that she would have liked someone from the association to come to the meeting, so the Board could ask questions. She added that drinking water is a high priority and she wants to address it correctly. Chairman Dunn asked if everyone at the condominium association was mailed a letter. L. Gandia reviewed the statute regarding the mailing of abutters, noting that you can mail it to everyone or all the officers of the association. B. O'Brien stated that he cannot decipher if the letter is written on behalf of the condominium association or not. N. Codner mentioned that there is really not a hard, firm measurement away from a building for a well. He noted that you want to keep a structure far enough away in order to be able to work on the well. S. Brunelle asked if this a two-car garage. F. Figueiredo replied that is correct. B. O'Brien asked how many cars he parks there now. F. Figueiredo stated he parks two cars now. J. Benard asked if he parks the cars

in the area where there is no garage now. F. Figueiredo reviewed where he currently parks his car. J. Benard asked if he has ever been approached by the condominium association on where he is parking. F. Figueiredo replied that he has not. S. Brunelle commented that it seems better than the current situation as he would be parking on concrete. (The Board took a break at this time 9:18 p.m. until 9:21 p.m.)

The Board closed public input and began deliberation:

- (1) The variance would not be contrary to the public interest: because it would not alter the essential character of the neighborhood.
- (2) The spirit of the ordinance would be observed: because there is no threat to the health, safety or welfare of the general public.
- (3) Substantial justice would be done: because the loss to the applicant would outweigh any gain to the general public.
- (4) Values of the surrounding properties would not be diminished: because the essential character of the neighborhood is not altered.
- (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 there is a grade issue and it would be a large project to change the driveway. The proposed use is a reasonable one.

J. Benard made a motion in CASE NO. 10/20/2021-2 to grant the request for a variance from LZO 4.2.1.3.C.2 to encroach 6.5 feet into the side setback for the construction of a two-story garage, 23 Mammoth Road, Map 1 Lot 56-1, Zoned AR-1, Felipe & Kirsten Figueiredo (Owners & Applicants)

B. Berardino seconded the motion.

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

E. CASE NO. 10/20/2021-3: Request for a variance from LZO 7.6.3.b.i for a 50 SF wall sign where only 40 SF are allowed, Four Orchard View Drive, Map 7 Lot 40-2, Zoned C-I, Matthew Goyette (Applicant) and Vernco Apple, LLC (Owner)

B. O'Brien read the case into the record noting the previous zoning. Matthew Goyette, 750 Brackett Road, Rye, NH addressed the Board. M. Goyette commented that he believes that George Vernett has done a lot of great work at the mall. He noted that most of the signs in the mall are over the square footage that the variance allows. He added that the size of the sign is 49.5 SF, not 50 SF.

He then read the criteria for granting the variance:

- (1) The granting of the variance is not contrary to the public interest: because a larger sign will not constitute a health or safety risk. Figueiredo
- (2) The spirit of the ordinance is observed: because a larger sign will only benefit neighboring businesses and the community.

- (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 is a retail location and the property as a whole will benefit from more signage.
- (5) There is not a 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 Jersey Mike's is using the proper square footage for the façade specifically as it relates to his neighbor, Game Changers. He said that the proposed use is a reasonable one.

Chairman Dunn asked for questions from the Board. S. Brunelle asked for more clarification on criteria number five for why his business is unique and should receive a larger sign. M. Goyette replied that it would be hard to see from the road. Chairman Rugg asked why the sign could not be 40 SF. M. Goyette stated that he thought the 40 SF sign would be hard to read from the road and it would look awkward in relation to Game Changers.

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 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.
- (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 in the corner and hard to see from the Route 102. The proposed use is a reasonable one.

J. Benard made a motion in CASE NO. 10/20/2021-3 to grant the request for a variance from LZO 7.6.3.b.i for a 50 SF wall sign where only 40 SF are allowed, Four Orchard View Drive, Map 7 Lot 40-2, Zoned C-I, Matthew Goyette (Applicant) and Vernco Apple, LLC (Owner)

B. Berardino seconded the motion.

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

VI. Other Business

Chairman Dunn noted that he has not written a letter to the Planning Board regarding the concerns about the portable structure variance. S. Brunelle stated that she did not receive the email. Chairman Dunn stated that they will hold off until the Board can review the information.

Adjournment:

B. Berardino made a motion to adjourn at 9:41 p.m.

B. O'Brien seconded the motion.

The motion was granted, 5-0-0. The meeting adjourned at 9:41 p.m.

RESPECTFULLY SUBMITTED,



CLERK

TYPED AND TRANSCRIBED BY Beth Morrison, Recording Secretary.

APPROVED (X) WITH A MOTION MADE BY P. O'Brien, SECONDED BY J. Macreilly, 5-0-0

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.

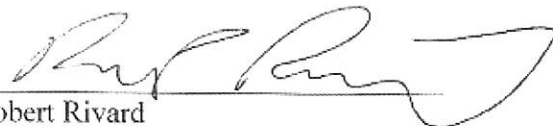
What Renegade's is asking for from the ZBA will enhance the property, help a local business and benefit people of this community with a convenient and popular source of food and drink.

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

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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.

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Very truly yours,



Christopher George

Mr. Steer



[date] 7/21/21

Londonderry ZBA
268B Mammoth Road
Londonderry, NH 03053

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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.

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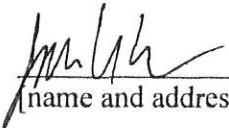
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I do thank you for your care and attention to this matter.

Very truly yours,

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

Joseph LaRose

03051

[date] 7/21/21

Londonderry ZBA
268B Mammoth Road
Londonderry, NH 03053

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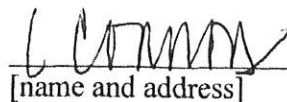
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Very truly yours,


[name and address]

ELIZABETH CONNORS

3 Mottawk Dr.
L'BERRY NH 03053

[date] 7 - 21 - 21

Londonderry ZBA
268B Mammoth Road
Londonderry, NH 03053

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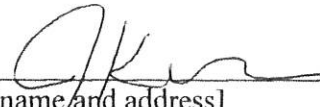
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Very truly yours,


[name and address]

JENN KRIEGER

3 MOHAWK DR
L'DERRY, NH 03053

[date]

Londonderry ZBA
268B Mammoth Road
Londonderry, NH 03053

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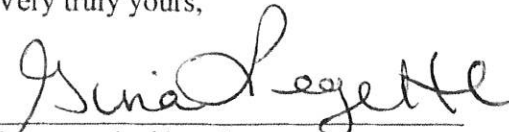
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Very truly yours,


[name and address]

Gina Legette

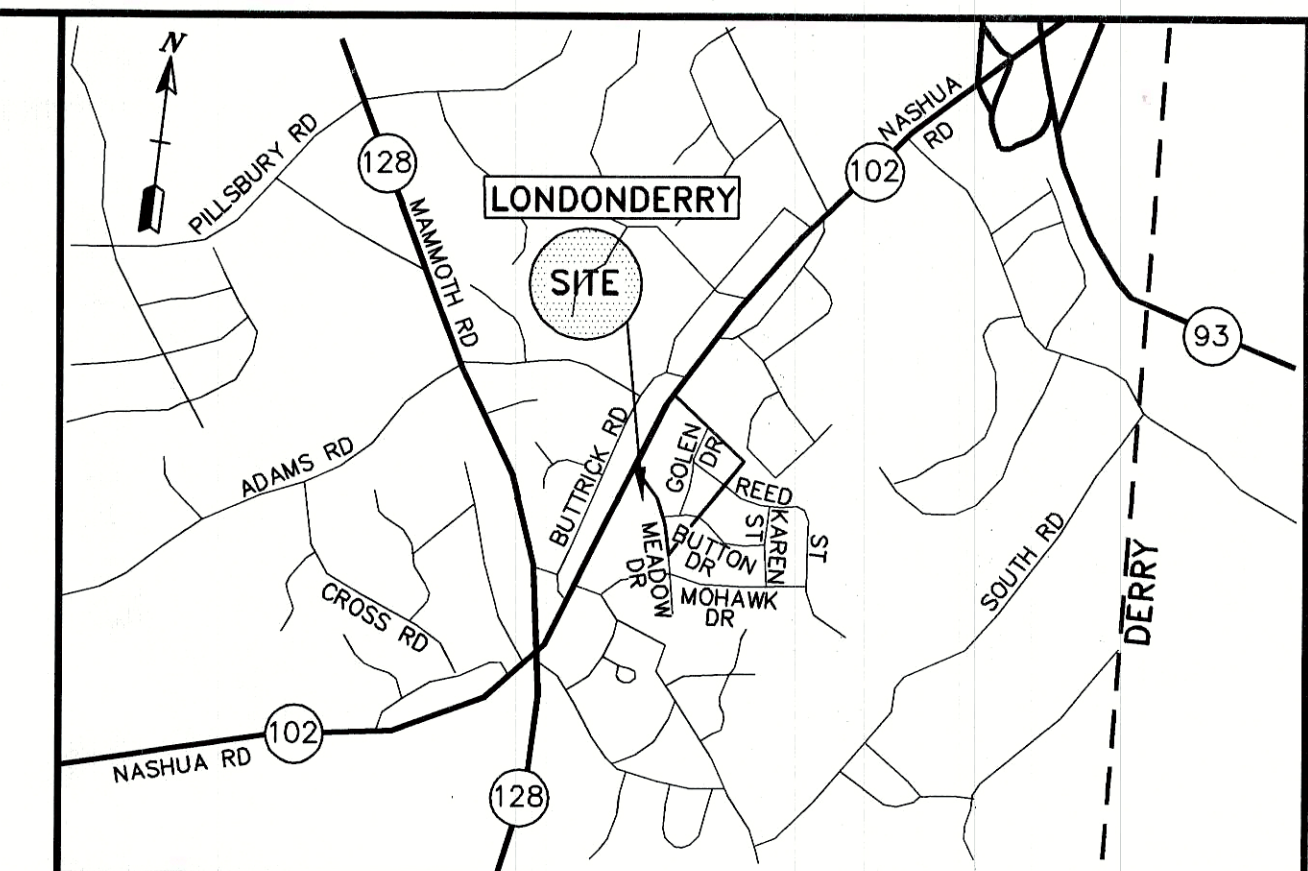
1 Button Dr

Londonderry NH

03053

REFERENCE PLAN

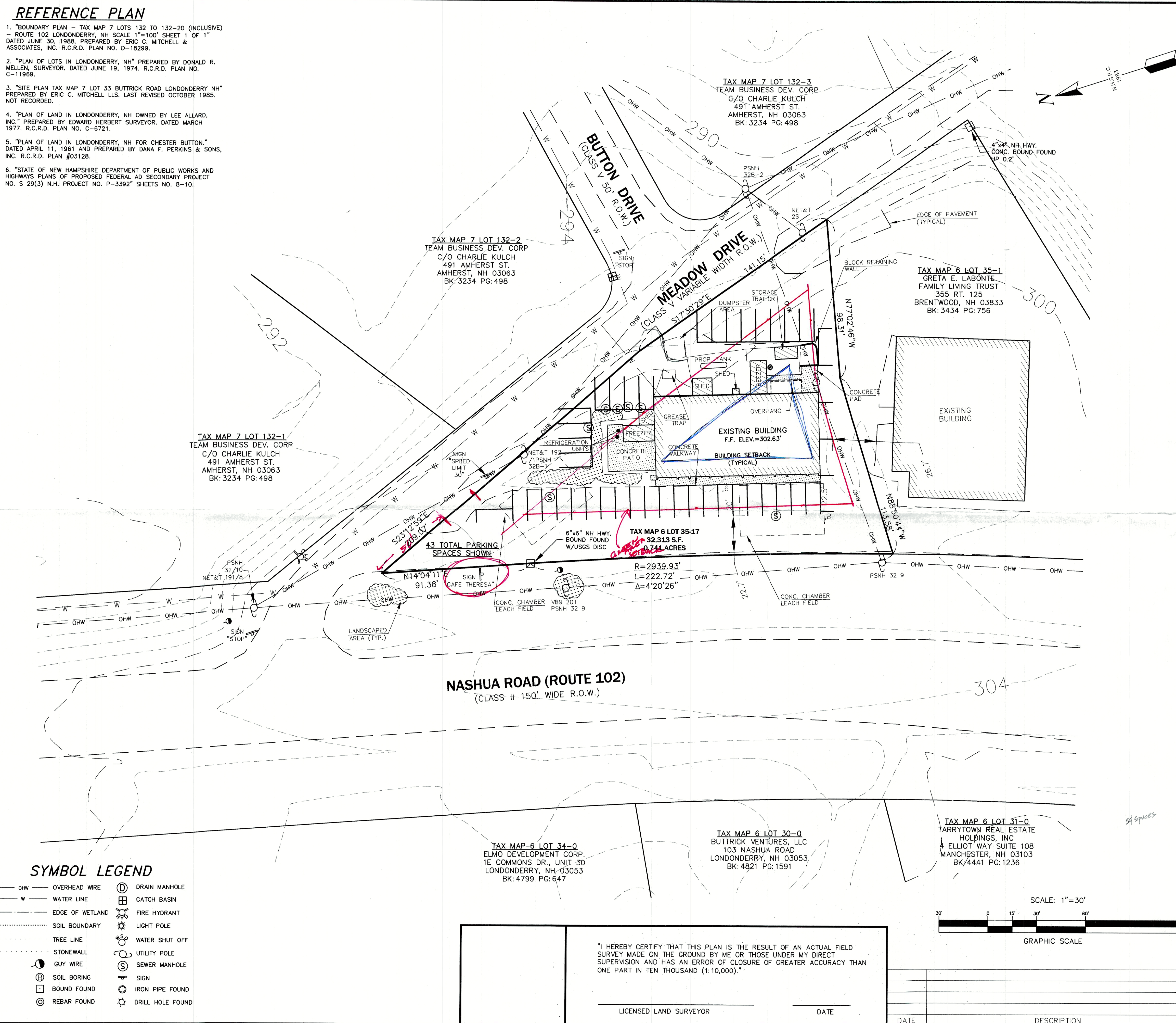
1. "BOUNDARY PLAN - TAX MAP 7 LOTS 132 TO 132-20 (INCLUSIVE) - ROUTE 102 LONDONDERRY, NH SCALE 1"=100' SHEET 1 OF 1" DATED JUNE 30, 1988. PREPARED BY ERIC C. MITCHELL & ASSOCIATES, INC. R.C.R.D. PLAN NO. D-18299.
2. "PLAN OF LOTS IN LONDONDERRY, NH" PREPARED BY DONALD R. MELLE, SURVEYOR. DATED JUNE 19, 1974. R.C.R.D. PLAN NO. C-11969.
3. "SITE PLAN TAX MAP 7 LOT 33 BUTTRICK ROAD LONDONDERRY NH" PREPARED BY ERIC C. MITCHELL LLS. LAST REVISED OCTOBER 1985. NOT RECORDED.
4. "PLAN OF LAND IN LONDONDERRY, NH OWNED BY LEE ALLARD, INC." PREPARED BY EDWARD HERBERT SURVEYOR. DATED MARCH 1977. R.C.R.D. PLAN NO. C-6721.
5. "PLAN OF LAND IN LONDONDERRY, NH FOR CHESTER BUTTON." DATED APRIL 11, 1961 AND PREPARED BY DANA F. PERKINS & SONS, INC. R.C.R.D. PLAN #03128.
6. "STATE OF NEW HAMPSHIRE DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS PLANS OF PROPOSED FEDERAL AD SECONDARY PROJECT NO. S 29(3) N.H. PROJECT NO. P-3392" SHEETS NO. 8-10.



LOCUS MAP
SCALE: 1"=2500'

NOTES

1. OWNER OF RECORD:
MICHAEL J. RICCIO
169 EAST DERRY ROAD
CHESTER, NH 03036
DEED BK: 4954 PG:4 94
2. THE INTENT OF THIS PLAN IS TO SHOW THE EXISTING CONDITIONS OF TAX MAP 6 LOT 35-17
3. UNDERLYING ZONE: COMMERCIAL-I (C-1)
MIN. LOT SIZE: 1 ACRE
MIN. LOT FRONTAGE: 150 FT.
FRONT SETBACK: 60 FT.
SIDE/REAR SETBACK: 30 FT.
RESIDENTIAL BUFFER: 50 FT.
WETLAND SETBACK: 50 FT. (WETLANDS >1/2 ACRE)
4. THE HORIZONTAL INFORMATION IS NEW HAMPSHIRE STATE PLANE COORDINATE SYSTEM 1983. THE VERTICAL DATUM IS N.A.V.D. 1988. THE HORIZONTAL AND VERTICAL DATUM WAS TAKEN FROM A SURVEY DISK LOCATED AT THE NORTHWEST END OF THE BRIDGE ON HUSE ROAD OVER INTERSTATE 293 IN MANCHESTER USING GPS OBSERVATIONS.
5. THE SUBJECT PROPERTY IS NOT LOCATED IN THE 100-YR FLOOD PLAIN AS PER THE FLOOD INSURANCE RATE MAP, ROCKINGHAM COUNTY COMMUNITY PANEL 33015C0526E, EFFECTIVE DATE MAY 17, 2005.



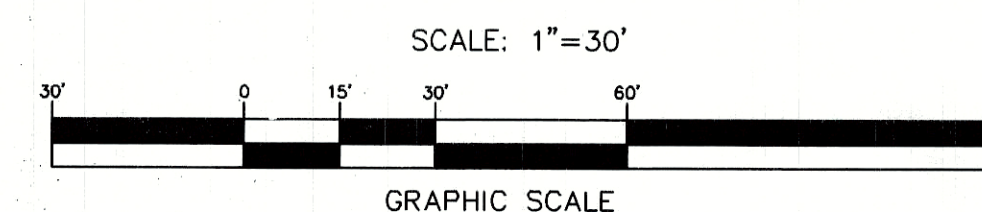
SYMBOL LEGEND

- | | | | |
|---------|-----------------|---|------------------|
| — OHW — | OVERHEAD WIRE | ① | DRAIN MANHOLE |
| — W — | WATER LINE | ⊞ | CATCH BASIN |
| --- | EDGE OF WETLAND | ⊞ | FIRE HYDRANT |
| --- | SOIL BOUNDARY | ⊞ | LIGHT POLE |
| --- | TREE LINE | ⊞ | WATER SHUT OFF |
| --- | STONEMAN | ⊞ | UTILITY POLE |
| ⊞ | GUY WIRE | ⊞ | SEWER MANHOLE |
| ⊞ | SOIL BORING | ⊞ | SIGN |
| ⊞ | BOUND FOUND | ⊞ | IRON PIPE FOUND |
| ⊞ | REBAR FOUND | ⊞ | DRILL HOLE FOUND |

"I HEREBY CERTIFY THAT THIS PLAN IS THE RESULT OF AN ACTUAL FIELD SURVEY MADE ON THE GROUND BY ME OR THOSE UNDER MY DIRECT SUPERVISION AND HAS AN ERROR OF CLOSURE OF GREATER ACCURACY THAN ONE PART IN TEN THOUSAND (1:10,000)."

LICENSED LAND SURVEYOR

DATE



TAX MAP 6 LOT 35-17

EXISTING CONDITIONS PLAN

PREPARED FOR:

CAFE THERESA

LAND OF:

MICHAEL & JUDY RICCIO

103 NASHUA ROAD

LONDONDERRY, NEW HAMPSHIRE

SCALE: 1" = 30' JULY 8, 2009 SHEET 1 OF 1

DRAWN:	CHECKED:	FB:	PG:	
P.D.S.	T.P.H.	549	50	1193-01

Bedford Design Consultants Inc.
ENGINEERS AND SURVEYORS

177 East Industrial Park Drive, Manchester, NH 03109
Telephone: (603) 622-5533 Fax: (603) 622-4740
www.bedforddesign.com

Edith P. Salvo
17 Oakridge Drive
Londonderry, NH 03053



October 11, 2021

Town of Londonderry
Zoning Board of Adjustment
2688 Mammoth Road
Londonderry, NH 03053

RE: Case No. 10/20/2021-2 Request for variance

Dear Zoning Board Members:

As Deputy Director of the Oakridge Manor Board of Directors, I'm writing in opposition to the request for variance noted above at 23 Mammoth Road for a two story garage. This property abuts to our open field area containing the wells for our 100 unit property. A two story garage that close to the property line could certainly pose an environmental hazard to the immediate area resulting in contamination of our vital water facilities.

On behalf of myself and my fellow homeowners, I respectfully request this application for variance be denied.

Sincerely, .

Edith P. Salvo
Deputy Director
Oakridge Manor Board of Directors