

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

MINUTES FROM 05/18/22 MEETING

The meeting was called to order at 7:00 p.m. Members introduced themselves. The following members were present: Jacqueline Benard, Vice Chair; Brendan O'Brien, Clerk; Irene Macarelli, alternate member; David Armstrong, alternate member; and Chris Moore, alternate member. Also, participating was Laura Gandia, Associate Planner; Nick Codner, Chief Building Inspector; and Beth Morrison, Recording Secretary. Vice Chair Benard made the alternates full voting members this evening.

I. APPROVAL OF MINUTES -

B. O'Brien made a motion to accept the April 20, 2022, meeting minutes as presented.

The motion was seconded by C. Moore.

The motion was granted, 5-0-0.

II. REPORT BY TOWN COUNCIL – D. Paul stated there was nothing to report at this time.

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

1. CASE NO. 05/18/2022-1: Request for two variances from LZO (1) 4.2.1.3.C.1 to encroach 11 feet into the 40 foot front setback for the construction of a family room addition; and (2) to encroach 15 feet into the 100 foot Planned Residential Development (PRD) setback for the construction of a family room addition, Eight Woodside Drive, Map 14 Lot 3-24, Zoned AR-1, Justin & Emily Soucy (Owners & Applicants)
2. CASE NO. 05/18/2022-2: Request for two variances from LZO (1) 7.6.D.3.b to allow two walls signs where only one is permitted; and (2) to allow the two wall signs to total 43.16 SF where only 40 SF are permitted, 42 Nashua Road, Map 7 Lot 68-1, Zoned C-I, NH Realty Trust (Owner) and HOTWORX (Applicant)
3. CASE NO. 05/18/2022-3: Request for a variance from LZO 4.5.2.A to allow the use of a self-storage facility which is prohibited, Six Rear Roundstone Drive, Map 28 Lot 15, Zoned GB, Brown Ave Properties, LLC (Owner & Applicant)
4. CASE NO. 05/18/2022-4: Request for a variance from LZO 4.2.1.3.C.1 to encroach 38 feet into the 40 foot front setback for the construction of a second floor addition, Five Foxglove Street, Map 15 Lot 203, Zoned AR-1, Amanda & Benjamin Harrison (Owners & Applicants)

B. O'Brien made a motion that the cases are not of regional impact.

The motion was seconded by I. Macarelli.

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

IV. PUBLIC HEARING OF CASES

A. CASE NO. 12/15/2021-8: Request for a variance from LZO 4.2.1.3.B.1 to allow a lot with 100.58 feet of frontage where 150 feet are required, Eight Wiley Hill Road, Map 5 Lot 28, Zoned AR-I, Belize Real Estate Holding, LLC (Owner & Applicant) – continued from the April 20, 2022 meeting

B. O'Brien read the case into the record noting it was continued from the April 20, 2022, meeting. I. Macarelli recused herself from this case. L. Gandia informed the Board that the applicant requested a continuance as they are still working with Staff.

B. O'Brien made a motion to continue CASE NO. 12/15/2021-8 the request for a variance from LZO 4.2.1.3.B.1 to allow a lot with 100.58 feet of frontage where 150 feet are required, Eight Wiley Hill Road, Map 5 Lot 28, Zoned AR-I, Belize Real Estate Holding, LLC (Owner & Applicant) to June 15, 2022 to allow time for the applicant to continue to research the right-of-way located in front of 82 High Range and work with Town staff.

D. Armstrong seconded the motion.

The motion was granted, 5-0-0. The application was continued until June 15, 2022.

B. CASE NO. 05/18/2022-1: Request for two variances from LZO (1) 4.2.1.3.C.1 to encroach 11 feet into the 40-foot front setback for the construction of a family room addition; and (2) to encroach 15 feet into the 100 foot Planned Residential Development (PRD) setback for the construction of a family room addition, Eight Woodside Drive, Map 14 Lot 3-24, Zoned AR-1, Justin & Emily Soucy (Owners & Applicants)

B. O'Brien read the case into the record noting no previous zoning. I. Macarelli came back to the Board for this case. Justin Soucy, owner at 8 Woodside Drive, 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 it does not change the essential character of the neighborhood nor threaten the health, safety or welfare of the general public. He added that the addition will not protrude out towards the road any farther than the existing house.
- (2) The spirit of the ordinance is observed: because the green space of the property will still be clear and maintained. He said that there is no other area to expand on the property.
- (3) Substantial justice is done: because the loss to the applicant would outweigh any gain to the public.

- (4) Values of surrounding properties are not diminished: because the addition will not diminish property values and hopefully enhance the property values.
- (5) There is no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the property is unique as the layout of the lot is reduced in size dramatically based on the buffer line cut through. He said that the location of the septic tank and leach field, there is no other space to expand on. He commented that the lot is unique in the neighborhood with a small triangle of land to expand upon.

Vice Chair Benard asked for questions from the Board. C. Moore asked where the driveway is currently. J. Soucy reviewed where the driveway is with the Board. He added that the driveway would not have to be shifted with the addition. He pointed out that the existing house is already 31-feet from the road and therefore is in the 40-foot setback. D. Armstrong asked if the addition is in line with the house. J. Soucy replied that is correct. L. Gandia reviewed the PRD setback from 1982, and read as follows: "The purpose of a planned residential development (PRD) is to encourage the preservation of open space, encourage flexibility in residential development design, promote more efficient use in land areas to preserve the rural environment open spaces of the community."

Vice Chair Benard opened it up to public input. B. O'Brien read a letter of support into the record, Exhibit 1, which is attached hereto.

The Board closed public input and began deliberation on LZO 4.2.1.3.C.1 to encroach 11 feet into the 40-foot front setback for the construction of a family room addition:

- (1) The variance would not be contrary to the public interest: because it would not alter the essential character of the neighborhood, nor threaten the health, safety or welfare of the general public.
- (2) The spirit of the ordinance would be observed: because it would 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 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 and the addition would improve the character of the home.
- (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 nowhere else to place an addition on the lot. The proposed use is a reasonable one.

B. O'Brien made a motion in CASE NO. 05/18/2022-1 to grant the request from LZO 4.2.1.3.C.1 to encroach 11 feet into the 40-foot front setback for the construction of a family room addition, Eight Woodside Drive, Map 14 Lot 3-24, Zoned AR-1, Justin & Emily Soucy (Owners & Applicants)

C. Moore 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 to encroach 15 feet into the 100 foot Planned Residential Development (PRD) setback for the construction of a family room addition:

- (1) The variance would not be contrary to the public interest: because it would not alter the essential character of the neighborhood, nor threaten the health, safety or welfare of the general public.
- (2) The spirit of the ordinance would be observed: because it would 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 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 and the addition will improve the value of the home.
- (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 no other place to place an addition. The proposed use is a reasonable one.

B. O'Brien made a motion in CASE NO. 05/18/2022-1 to grant the request to encroach 15 feet into the 100 foot Planned Residential Development (PRD) setback for the construction of a family room addition, Eight Woodside Drive, Map 14 Lot 3-24, Zoned AR-1, Justin & Emily Soucy (Owners & Applicants)

I. Macarelli seconded the motion.

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

C. CASE NO. 05/18/2022-2: Request for two variances from LZO (1) 7.6.D.3.b to allow two walls signs where only one is permitted; and (2) to allow the two wall signs to total 43.16 SF where only 40 SF are permitted, 42 Nashua Road, Map 7 Lot 68-1, Zoned C-I, NH Realty Trust (Owner) and HOTWORX (Applicant)

B. O'Brien read the case into the record reviewing the previous zoning with the Board. Paul Botting, from ProSource Signs Inc., 80 North High Street, Unit 7, Derry, NH addressed the Board stating that he is representing Franchesca Bussiere of HOTWORX. P. Botting commented that they are requesting two variances this evening. He said that the first is to allow two wall signs where only one is permitted and to allow the square footage of those signs total 43 SF. He stated that since the building faces two rights-of-way it should have a sign on both facades. He mentioned that T-Mobile, which is in the same building that HOTWORX, had a variance granted that is similar to this request.

He then read the criteria for granting the variance:

- (1) The granting of the variance is not contrary to the public interest: because it does not threaten the health, safety or welfare of the general public or change the essential character of the neighborhood.
- (2) The spirit of the ordinance is observed: because the spirit of the ordinance has been observed.

- (3) Substantial justice is done: because there is no injustice to the general public by granting the variance.
- (4) Values of surrounding properties are not diminished: because signs will not have an adverse effect on surrounding property values.
- (5) There is no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because there is existing signage on the same building that is over the 40 SF allowance and the view of the store frontage facing from Nashua Road is blocked by the Convenient MD. He said that the request is reasonable.

Vice Chair Benard asked for questions from the Board. D. Armstrong asked if the size of the sign is the same as the T-Mobile. P. Botting replied that it is smaller than the T-Mobile. D. Armstrong asked if it was backlit. P. Botting replied that they are. He reviewed the sign pictures with the Board in their packet.

Vice Chair Benard opened it up to public input and there was none.

Vice Chair Benard brought the discussion back to the Board as there was no further public input. B. O'Brien asked if the square footage overage was due to the way the letters are structured, as they are very close to 40 SF. P. Botting responded that when they laid out the letters on the side of the building, this is the number they came up with. He added that if it was just one sign, it would not make a difference.

The Board closed public input and began deliberation on LZO 7.6.D.3.b to allow two walls signs where only one is permitted:

- (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 it does not alter the essential character of the neighborhood and it is helpful to have signs on both facades for the motoring public to identify it.
- (3) Substantial justice would be done: because there is no loss to the public by allowing two signs.
- (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 it has Convenient MD blocking it from Nashua Road, faces two separate directions and it is in a corner not visible to the motoring public. The proposed use is a reasonable one.

B. O'Brien made a motion in CASE NO. 05/18/2022-2 to grant the request from LZO 7.6.D.3.b to allow two walls signs where only one is permitted, 42 Nashua Road, Map 7 Lot 68-1, Zoned C-I, NH Realty Trust (Owner) and HOTWORX (Applicant)

C. Moore 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 to allow the two wall signs to total 43.16 SF where only 40 SF are permitted:

- (1) The variance would not be contrary to the public interest: because it would not alter the essential character of the neighborhood nor threaten the health, safety or welfare of the general public.
- (2) The spirit of the ordinance would be observed: because it would not affect the health, safety or welfare of the general public nor alter the essential character of the neighborhood.
- (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 it has Convenient MD blocking it from Nashua Road, faces two separate directions and it is in a corner not visible to the motoring public. The proposed use is a reasonable one.

B. O'Brien made a motion in CASE NO. 05/18/2022-2 to grant the request to allow the two wall signs to total 43.16 SF where only 40 SF are permitted 42 Nashua Road, Map 7 Lot 68-1, Zoned C-I, NH Realty Trust (Owner) and HOTWORX (Applicant)

D. Armstrong seconded the motion.

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

D. CASE NO. 05/18/2022-3: Request for a variance from LZO 4.5.2.A to allow the use of a self-storage facility which is prohibited, Six Rear Roundstone Drive, Map 28 Lot 15, Zoned GB, Brown Ave Properties, LLC (Owner & Applicant)

B. O'Brien read the case into the record. John Cronin, Esq., from Cronin, Bisson and Zalinsky Attorneys at Law, 722 Chestnut St, Manchester, NH and Arthur Sullivan, Manager at Brown Ave Properties, LLC, 670 Commercial St, Suite 303, Manchester, NH addressed the Board. J. Cronin reviewed the parcel, noting it is surrounded by an airport access conservation easement, Little Cohas Brook and power easements. He noted it is 14.23-acre parcel, irregular in shape, and has intermittent wetlands throughout, of which it honors setbacks and buffer requirements if it was approved tonight. He clarified that they are not seeking any outside storage. He explained that they are proposing 10 temperature controlled storage buildings, totaling a 70,000 SF area. He mentioned that the Gateway Business (GB) district has some limited uses allowed by the use table and reviewed those with the Board. He said that they are requesting a use variance to this particular site this evening. He pointed out that he believes this is the highest and best use of the site, as none of the other uses would work here. He commented that there is a natural ridge feature that would block the visibility of this proposed use from the residential houses around it. He added that this is a good tax generator and guessed that it would bring in approximately \$100,000 a year. He said that there has been a thirty year effort to try and use this land. He passed a report from an appraiser, Exhibit 2, to the Board, which is attached hereto.

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 nor threaten the health, safety or welfare of the general public.
- (2) The spirit of the ordinance is observed: because the proposed use is consistent with the allowed uses in the zone but generate fewer impacts.
- (3) Substantial justice is done: because the loss to the applicant would outweigh any gain to the public.
- (4) Values of surrounding properties are not diminished: because the essential character of the neighborhood will not be altered.
- (5) There is no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the property is unique as it has several specific conditions such as variable topography, limited access and various wetlands that differ in size and shape. He added that it is also burdened by the Airport Access Road Mitigation Conservation Easement and the PSNH transmission lines. He said that the use is reasonable.

Vice Chair Benard asked for questions from the Board. C. Moore asked if there is access from Brown Ave to this site. J. Cronin replied that there is no paved access. D. Armstrong asked if they had renderings with them this evening. J. Cronin responded that there has been no formal architectures due to the cost, as they wait to go before the Planning Board. D. Armstrong asked if the storage is outside. J. Cronin replied that there will be multiple units in each of the buildings and the demand of the market will dictate what they build. D. Armstrong asked about parking. J. Cronin answered that they are not asking for more parking spaces, as there are 34 spaces presently. D. Armstrong asked if it was cold or heated storage. J. Cronin replied that the unit owner will decide and it will be temperature controlled. D. Armstrong asked about the blue area on the map. J. Cronin replied that it is the level of the pond and would be addressed at the Planning Board level. C. Moore asked about traffic. J. Cronin replied that there will be an increase in traffic with anything going in this parcel. He said that this will generate the most traffic on the weekends. He mentioned that the Planning Board can ask them to do a traffic study, which the applicant will provide. J. Benard asked if it will have employees. J. Cronin replied that it will not have employees and it is kiosk only. He said that they will have employees that are available on call for safety concerns. J. Benard asked how someone rents a unit. A. Sullivan reviewed how someone would rent a unit. J. Benard asked if the applicant would be okay with a condition that there will be no outside storage allowed. J. Cronin responded that they are okay with that condition.

Vice Chair Benard opened it up to 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 would not alter the essential character of the neighborhood, as it is a largely isolated area and a wooded lot.
- (2) The spirit of the ordinance would be observed: because it would not alter the essential character of the neighborhood.
- (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 it is oddly shaped, has wetlands, Little Cohas Brook, and a warehouse would be an allowed use here. The proposed use is a reasonable one.

B. O'Brien made a motion in CASE NO. 05/18/2022-3 to grant the request for a variance from LZO 4.5.2.A to allow the use of a self-storage facility which is prohibited, Six Rear Roundstone Drive, Map 28 Lot 15, Zoned GB, Brown Ave Properties, LLC (Owner & Applicant) with the condition that no outside storage be allowed

C. Moore seconded the motion.

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

E. CASE NO. 05/18/2022-4: Request for a variance from LZO 4.2.1.3.C.1 to encroach 38 feet into the 40 foot front setback for the construction of a second floor addition, Five Foxglove Street, Map 15 Lot 203, Zoned AR-1, Amanda & Benjamin Harrison (Owners & Applicants)

B. O'Brien read the case into the record. Ben Harrison, 5 Foxglove, addressed the Board. B. Harrison told the Board that they would like to take the roof off and expand up on his existing house.

He then read the criteria for granting the variance:

- (1) The granting of the variance is not contrary to the public interest: because the existing structure is not changing and the roof line matches the other roof lines.
- (2) The spirit of the ordinance is observed: because the footprint of the existing structure will not change.
- (3) Substantial justice is done: because the loss the applicant would outweigh any gain to the public.
- (4) Values of surrounding properties are not diminished: because the proposed second floor addition will not diminish surrounding property values.
- (5) There is no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the property is unique as it was built in 1927 before setback laws were in place.

Vice Chair Benard asked the Board for questions. B. O'Brien asked if he was proposing adding any structure towards the street. B. Harrison replied that he is not, just going straight up. C. Moore asked why a variance is needed, if the applicant is not encroaching further into the setback. N. Codner replied that the existing house is already in the front setback. D. Armstrong asked if he was going up one story. B. Harrison replied that is correct.

Vice Chair Benard 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 would not alter the essential character of the neighborhood.
- (2) The spirit of the ordinance would be observed: because it would not alter the essential character of the neighborhood nor any threat to public safety.
- (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 as the addition is not changing the footprint of the house.
- (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 was built prior to zoning and is already in the setback. The proposed use is a reasonable one.

B. O'Brien made a motion in CASE NO. 05/18/2022-4 to grant the request for a variance from LZO 4.2.1.3.C.1 to encroach 38 feet into the 40-foot front setback for the construction of a second-floor addition, Five Foxglove Street, Map 15 Lot 203, Zoned AR-1, Amanda & Benjamin Harrison (Owners & Applicants)

C. Moore seconded the motion.

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

VI. Other Business – L. Gandia told the Board that there will be training next Wednesday at 7 p.m. in the Moose Hill Conference Room.

Adjournment:

B. O'Brien made a motion to adjourn at 8:12 p.m.

C. Moore seconded the motion.

The motion was granted, 5-0-0. The meeting adjourned at 8:12 p.m.

RESPECTFULLY SUBMITTED,



CLERK

TYPED AND TRANSCRIBED BY Beth Morrison, Recording Secretary.

APPROVED (X) WITH A MOTION MADE BY B. O'Brien, SECONDED BY C. Moore, 5-0-0.

April 5, 2022



Attn: Zoning Board

Town of Londonderry

I am in support of the variances for the setback encroachment for the addition planned at 8 Woodside Dr.

Frank Donlan
FRANK DONLAN

Name

10 Woodside Dr.

Address

Pat Maner
PAT MANER

Name

11 Woodside Dr.

Address

David & Jane Gray

Name

7 Woodside Dr.

Address

Mike Zilten

Name

9 Woodside Dr.

Address

Alvin Law Alvaslau

Name

13 Woodside Dr.

Address

Name

Address

Name

Address

KANTERES REAL ESTATE

May 18, 2022

Jacqueline Benard, Vice Chairperson
Londonderry Zoning Board of Adjustment
268B Mammoth Road
Londonderry, New Hampshire 03053

Re: Property Development to Self Storage Facility
6 Roundstone Drive, Londonderry, New Hampshire

Dear Vice Chair Benard:

Our office was engaged to review the Application for a Variance seeking to develop the 14.23 acre lot located at 6 Roundstone Drive in Londonderry into a self-storage facility. It is our understanding that this land was historically used as a sand and gravel site but has sat vacant and unused for many years. In the course of our work, we evaluated the impact of the proposed self-storage facility on the nearby established residential neighborhood and commercial abutters.

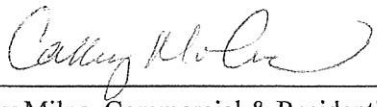
Our real estate practice has been conducting commercial, land and residential real estate for over 60 years in New Hampshire, with a primary focus on the greater Manchester and surrounding area. Based on my experience working across multiple sectors, it is my opinion the demand for self-storage units and warehouse level storage space has been on the rise for the past several years. While an unpredictable market surge occurred during COVID due to office and campus closures, normal market conditions have remained high - largely tied to a rising retiree population. There are ongoing storage demands for households that are downsizing and seeking additional back-up space - as well as additional secure vehicle storage. In addition, e-commerce has driven an increased need for warehousing and quick distribution in response to online shopping. Warehouse and storage facilities are two of the most sought-after commercial real estate properties throughout the state.

In review of the impact to neighboring properties, I visited the site and assessed the surrounding area. The residential development consists of homes that are a combination of split level and ranch style houses ranging in price between \$280,000 to \$380,000 and exist on the Manchester side of the town line. There is a significant natural buffer zone of trees that appears to limit line of site from the access road of Brown Ave to the neighboring residential homes. In addition, the Brown Ave. Properties, LLC development design shows the storage units to be set back from the access road - limiting visibility to traffic flow in and out of the storage units.

In this market, homes at this level are in the value range where demand far exceeds supply and continues to drive prices higher. The subject site does not appear to have any negative impact to value. In fact, a self-storage facility would be an improvement to the potential noise considerations of the historic sand and gravel site. The self-storage facility also aligns with the generally commercial style buildings and parking pads existing on Roundstone Drive.

It is my professional opinion that the proposed development aligns well with the location and surrounding properties if the variance is approved. In fact, it would be a welcome site in response to ongoing market demand.

Sincerely yours,
Kanteres Real Estate

By: 

Calley Milne, Commercial & Residential Sales Agent