



TOWN OF LONDONDERRY
ZONING BOARD OF ADJUSTMENT

268B Mammoth Road, Londonderry, New Hampshire 03053
Phone: 432-1100, ext.134 Fax: 432-1142

January 18, 2018

Following are the results of the Zoning Board of Adjustment hearing held Wednesday, January 17, 2018:

Case No.: 12/20/2017-4

Applicant: Elyse Greco
45 White Plains Ave
Londonderry, NH 03053

Location of Property: 187 Pillsbury Road Road, Map 6 Lot 101, Zoned AR-1

Request: Request for a variance from LZO 2.3.1.4 to allow dog kennels on a 1.7 acre lot where two acres are required

Result: J. Tirabassi made a motion in **CASE NO. 12/20/2017-4** to deny the applicant's request for a variance from LZO 2.3.1.4 to allow dog kennels on a 1.7 acre lot where two acres are required, 187 Pillsbury Road, Map 6 Lot 101, Zoned AR-1, Beryl Blakemore, Executrix of the Estate of John Pullis (Owner) & Elyse Greco (Applicant).

J. Benard seconded the motion.

The motion passed, 5-0-0. The applicant's request to allow a dog kennel on a 1.7 acre lot where two acres are required was denied.

The reasons for the denial are as follows: (1) the granting of the variance would be contrary to the public interest and contrary to the spirit of the ordinance because by allowing the use of a kennels, the essential character of the neighborhood would be altered by reason of noise and other effects associated with a dog kennel. Public safety would be also comprised. The spirit of the ordinance for two acres is to provide an adequate buffer in a residential neighborhood and allowing a dog kennel would be contrary to that spirit; (2) granting of the ordinance would not do substantial justice because the gain to the public (providing an adequate buffer for noise, sight and other effects, protecting the essential character of the neighborhood, keeping the residential neighborhood in tact by not allowing excess noise and other nuisance effects, etc.) by not granting the variance is far outweighed by any loss to the applicant;



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(3) the value of surrounding properties would be diminished due to the noise and other effects associated with the kennel; and (4) the applicant failed to prove the hardship argument and the use of a kennel on a lot less than two acres in a residential neighborhood is not a reasonable one.

Jim Tirabassi

Jim Tirabassi, Clerk

NOTE: Actions of the ZBA, granted or denied, are subject to the right of interested parties to request a rehearing within thirty calendar days following a hearing and to the Superior Court in accordance with RSA 677:1-14.

cc: Town Council; Building Inspector; Town Clerk; Assessor; Planning Board; Conservation Commission



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Following are the results of the Zoning Board of Adjustment hearing held Wednesday, January 17, 2018:

Case No.: 12/20/2017-5

Applicant: Elyse Greco
45 White Plains Ave
Londonderry, NH 03053

Location of Property: 187 Pillsbury Road, Map 6 Lot 101, Zoned AR-1

Request: Request for a special exception under LZO 3.12.1 for a dog daycare business as a home occupation

Result: The applicant withdrew her request for a special exception under LZO 3.12.1 for a dog daycare business as a home occupation, 187 Pillsbury Road, Map 6 Lot 101, Zoned AR-1, Beryl Blakemore, Executrix of the Estate of John Pullis (Owner) & Elyse Greco (Applicant).

Jim Tirabassi

Jim Tirabassi, Clerk

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Following are the results of the Zoning Board of Adjustment hearing held Wednesday, January 17, 2018:

Case No.: 12/20/2017-7

Applicant: NH Six Realty Trust
36 Adams Street
Milton, MA 02186

Location of Property: 42 Nashua Road, Map 7 Lot 68-01, Zoned C-I

Request: Request for a variance from LZO 2.4.3.A.3.a to allow construction of a building 28 feet from the right-of-way where 60 feet are required

Result: J. Tirabassi made a motion in **CASE NO. 12/20/2017-7** to grant the applicant's request for a variance from LZO 2.4.3.A.3.a to allow construction of a building 28 feet from the right-of-way where 60 feet are required, 42 Nashua Road, Map 7 Lot 68-01, Zoned C-I, NH Six Realty Trust (Owner & Applicant).

S. Brunelle seconded the motion.

The motion passed, 5-0-0.

Jim Tirabassi

Jim Tirabassi, Clerk

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cc: Town Council; Building Inspector; Town Clerk; Assessor; Planning Board; Conservation Commission



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Following are the results of the Zoning Board of Adjustment hearing held Wednesday, January 17, 2018:

Case No.: 12/20/2017-8

Applicant: NH Six Realty Trust
36 Adams Street
Milton, MA 02186

Location of Property: 42 Nashua Road, Map 7 Lot 68-01, Zoned C-I

Request: Request for a variance from LZO 2.4.3.A.3.a to allow construction of a building 32 feet 6 inches (32'6") from the right-of-way where 60 feet are required

Result: J. Tirabassi made a motion in **CASE NO. 12/20/2017-8** to grant the applicant's request for a variance from LZO 2.4.3.A.3.a to allow construction of a building 32 feet 6 inches (32'6") from the right-of-way where 60 feet are required, 42 Nashua Road, Map 7 Lot 68-01, Zoned C-I, NH Six Realty Trust (Owner & Applicant)

J. Benard seconded the motion.

The motion passed, 5-0-0.

Jim Tirabassi

Jim Tirabassi, Clerk

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cc: Town Council; Building Inspector; Town Clerk; Assessor; Planning Board; Conservation Commission



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Following are the results of the Zoning Board of Adjustment hearing held Wednesday, January 17, 2018:

Case No.: 12/20/2017-9

Applicant: NH Six Realty Trust
36 Adams Street
Milton, MA 02186

Location of Property: 42 Nashua Road, Map 7 Lot 68-01, Zoned C-I

Request: Request for a variance from LZO 2.4.3.B.1 to allow encroachment into the perimeter green space in two locations: (1) encroachment of up to 17 feet into the required 30 feet of perimeter green space along Route 102, and (2) encroachment of up to four feet into the required 15 feet of perimeter green space along the private way, 42 Nashua Road

Result: J. Tirabassi made a motion in **CASE NO. 12/20/2017-9** to deny the applicant's request for a variance from LZO 2.4.3.B.1 to allow encroachment into the perimeter green space of up to 17 feet into the required 30 feet of perimeter green space along Route 102, and to grant the applicant's request for a variance from LZO 2.4.3.B.1 to allow encroachment into the perimeter green space of up to four feet into the required 15 feet of perimeter green space along the private way, 42 Nashua Road, Map 7 Lot 68-01, Zoned C-I, NH Six Realty Trust (Owner & Applicant)

S. Brunelle seconded the motion.

The motion passed, 5-0-0. The applicant's request for a variance to allow encroachment into the perimeter green space of up to 17 feet into the required 30 feet of perimeter green space along Route 102 was denied.

The reasons for the in part denial of the variance to not allow encroachment into the perimeter green space of up to 17 feet into the required 30 feet of perimeter green space along Route 102 were as follows: (1) the granting of the variance would be contrary to the public interest because the safety of the public would be



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compromised by allowing the encroachment along Route 102 which is a highly travelled road with a significant amount of traffic and other distractions. The encroachment will only further intensify the distractions along Route 102. Further, the applicant noted the need for the buildings to be positioned in such a way as to reduce traffic and safety concerns and the location of the parking in the green space is contrary to those safety and traffic concerns expressed. The intent of the buffer is to provide an adequate space between the property and Route 102 and reduce congestion, and the proposed encroachment along Route 102 is contrary to the intent while causing great public safety concerns; (2) the granting of the variance would not do substantial justice because the loss to the public by not preserving the appropriate and needed buffers on a highly travelled and congested road where public safety is paramount is far outweighed by any gain to the applicant; and (5) the applicant failed to satisfy the hardship criteria subsection (b) because the lot could be used in strict conformity with the ordinance.

Jim Tirabassi

Jim Tirabassi, Clerk

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cc: Town Council; Building Inspector; Town Clerk; Assessor; Planning Board; Conservation Commission



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ZONING BOARD OF ADJUSTMENT

268B Mammoth Road, Londonderry, New Hampshire 03053
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January 18, 2018

Following are the results of the Zoning Board of Adjustment hearing held Wednesday, January 17, 2018:

Case No.: 12/20/2017-10

Applicant: NH Six Realty Trust
36 Adams Street
Milton, MA 02186

Location of Property: 42 Nashua Road, Map 7 Lot 68-01, Zoned C-I

Request: **CASE NO. 12/20/2017-10:** Request for two variances from LZO 3.11.6.D.3.b.ii to allow (1) three walls signs where two are permitted, and (2) from LZO 3.11.6.D.3.b.i to allow three wall signs totaling 486 SF where only 50 SF are allowed, 42 Nashua Road, Map 7 Lot 68-01, Zoned C-I, NH Six Realty Trust (Owner & Applicant)

Result: J. Tirabassi made a motion in **CASE NO. 12/20/2017-10** to grant the applicant's request for a variance from LZO 3.11.6.D.3.b.ii to allow three walls signs where two are permitted 42 Nashua Road, Map 7 Lot 68-01, Zoned C-I, NH Six Realty Trust (Owner & Applicant)

J. Benard seconded the motion.

The motion passed with conditions, 4-1-0.

J. Tirabassi made a motion in **CASE NO. 12/20/2017-10** to deny the applicant's request for a variance from LZO 3.11.6.D.3.b.ii to allow three wall signs totaling 486 SF where only 50 SF are allowed, 42 Nashua Road, Map 7 Lot 68-01, Zoned C-I, NH Six Realty Trust (Owner & Applicant)

B. O'Brien seconded the motion.

The motion passed, 5-0-0. The applicant's request for 486 SF of signage where only 50 SF are allowed was denied.



TOWN OF LONDONDERRY

ZONING BOARD OF ADJUSTMENT

268B Mammoth Road, Londonderry, New Hampshire 03053

Phone: 432-1100, ext.134 Fax: 432-1142

The reasons for the denial are as follows: (1) the granting of the variance would be contrary to the public interest and the spirit of the ordinance would not be observed because the proposed SF would create excessive clutter and detract from the essential character of the neighborhood as well as cause public safety concerns. The intent of the sign ordinance is to protect the health, safety and welfare of the public, maintain and enhance the appearance and aesthetic environment and control visual clutter. The proposed request of an additional 400+ SF of signage is contrary to that intent especially given the location and existing signage in that area; and (2) the applicant failed to satisfy the hardship criteria under subsection B because the property can be reasonably used in strict conformance with the ordinance. The applicant can reasonably utilize the 50 SF of allowed signage.

Jim Tirabassi

Jim Tirabassi, Clerk

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cc: Town Council; Building Inspector; Town Clerk; Assessor; Planning Board; Conservation Commission



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Following are the results of the Zoning Board of Adjustment hearing held Wednesday, January 17, 2018:

Case No.: 1/17/2018-1

Applicant: Brian Proulx
50 South Road
Londonderry, NH 03053

Location of Property: 50 South Road, Map 3 Lot 15, Zoned AR-1

Request: Request for a variance from LZO 2.3.1.3.C.1 to allow a carport to encroach approximately 27 feet into the 40 feet front setback back

Result: J. Tirabassi made a motion in **CASE NO. 1/17/18-1** to grant the applicant's request for a variance from LZO 2.3.1.3.C.1 to allow a carport to encroach approximately 27 feet into the 40 feet front setback back, 50 South Road, Map 3 Lot 15, Zoned AR-1, Brian Proulx (Owner & Applicant) with the condition that the length of the carport be no greater than 24 feet

S. Brunelle seconded the motion.

The motion passed with conditions, 5-0-0.

Jim Tirabassi

Jim Tirabassi, Clerk

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cc: Town Council; Building Inspector; Town Clerk; Assessor; Planning Board; Conservation Commission



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Following are the results of the Zoning Board of Adjustment hearing held Wednesday, January 17, 2018:

Case No.: 1/17/2018-2

Applicant: SHN, LLC
Four Shelly Drive
Londonderry, NH 03053

Location of Property: Five Manter Mill Road, Map 18 Lot 20, Zoned AR-1

Request: Request for two variances: (1) from LZO 2.3.1.3.C.1 to allow the construction of an addition which will encroach approximately 32 feet into the 40 feet front setback, and (2) from LZO 2.3.1.3.C.2 to allow construction of an addition which will encroach eight feet into the 15 feet side setback

Result: J. Tirabassi motion to grant in **CASE NO. 1/17/18-2** the applicant's request for a variance from LZO 2.3.1.3.C.2 to allow construction of an addition which will encroach eight feet into the 15 feet side setback, Five Manter Mill Road, Map 18 Lot 20, Zoned AR-1, SHN, LLC (Owner & Applicant) with the condition that the house shall not be less than seven feet from side property line.

S. Brunelle seconded the motion.

The motion passed with conditions, 5-0-0.

J. Tirabassi motion to grant in **CASE NO. 1/17/18-2** the applicant's request for a variance from LZO 2.3.1.3.C.1 to allow the construction of an addition which will encroach approximately 32 feet into the 40 feet front setback, Five Manter Mill Road, Map 18 Lot 20, Zoned AR-1, SHN, LLC (Owner & Applicant) with the condition that the house shall not be less than eight feet from the front property line.

S. Brunelle seconded the motion.



TOWN OF LONDONDERRY

ZONING BOARD OF ADJUSTMENT

268B Mammoth Road, Londonderry, New Hampshire 03053

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The motion passed with conditions, 5-0-0.

Jim Tirabassi

Jim Tirabassi, Clerk

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cc: Town Council; Building Inspector; Town Clerk; Assessor; Planning Board; Conservation Commission



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Following are the results of the Zoning Board of Adjustment hearing held Wednesday, January 17, 2018:

Case No.: 1/17/2018-3

Applicant: CC Properties, LLC
43 Adams Road
Londonderry, NH 03053

Location of Property: Two Litchfield Road, Map 12 Lot 68, Zoned C-III & Historic Overlay District

Request: Request for a variance from LZO 2.4.1.B.3.a to allow the use of a financial institution with a drive thru window as an accessory use in the C-III district which is otherwise prohibited

Result: J. Tirabassi made a motion to deny the applicant's request in **CASE NO. 1/17/18-3** for a variance from LZO 2.4.1.B.3.a to allow the use of a financial institution with a drive thru window as an accessory use in the C-III district which is otherwise prohibited, Two Litchfield Road, Map 12 Lot 68, Zoned C-III & Historic Overlay District (HOD), CC Properties, LLC (Owner & Applicant)

B. O'Brien seconded the motion.

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

The reasons for the denial were: (1) the granting of the variance would be contrary to the public interest and contrary to the spirit and intent of the ordinance because the use of a financial institution with a drive-through would alter the essential character of the neighborhood especially given that the property is surrounded by AR-1 properties and cause significant traffic and public safety concerns as the Litchfield Road and Mammoth Road intersection is already in failure. Further, the intent of the C-III district is primarily intended for business-professional offices and residential use which is different from the C-II district which is intended to encourage the development of business areas designed to serve the motoring public (financial institutions/driveways thrus are allowed in C-II but not C-III). Allowing a financial institution with a drive thru is



TOWN OF LONDONDERRY

ZONING BOARD OF ADJUSTMENT

268B Mammoth Road, Londonderry, New Hampshire 03053

Phone: 432-1100, ext.134 Fax: 432-1142

contrary to the spirit and intent of the C-III district and is more in line with serving the motoring public; (2) the granting of the variance would not do substantial justice because the loss to the public is outweighed by any gain to the individual as the intent of the ordinance is to limit certain business uses and the proposed use raises traffic and public safety concerns; and (3) the applicant failed to demonstrate a hardship or uniqueness to the property and the use of a financial institution in a C-II district surrounded by residential properties and the intent and purpose of a C-III district makes the proposed use unreasonable.

Jim Tirabassi

Jim Tirabassi, Clerk

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Case No.: 1/17/2018-4

Applicant: 7-Eleven, Inc.
3200 Huckleberry Road
Irving, TX 75063

Location of Property: 162 Rockingham Road, Map 15 Lot 58, Zoned MUC

Request: Request for two variances: (1) from LZO 3.11.5.C.1 to allow a sign 25 feet in height where only 10 feet in height are allowed, and (2) from LZO 3.11.6.D.3.a to allow a 113 SF sign where only 65 SF are allowed

Result: The applicant withdrew its request for the two variances.

Jim Tirabassi

Jim Tirabassi, Clerk

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cc: Town Council; Building Inspector; Town Clerk; Assessor; Planning Board; Conservation Commission