



TOWN OF LONDONDERRY
ZONING BOARD OF ADJUSTMENT

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

November 8, 2018

Following are the results of the Zoning Board of Adjustment hearing held Wednesday, November 1, 2018:

Case No.: 10/17/18-7

Applicant: Five M's Real Estate Holdings, LLC and Five M's Office Properties Holdings, LLC
33 Nashua Road
Londonderry, NH 03053

Location of Property: 33 Nashua Road, Map 7 Lots 73-3 and 73-6, Zoned C-I & C-II

Request: Request for variances from LZO: (1) 2.4.3.A.1 to encroach into the 32 feet into the 60 feet structure setback for the construction of a retaining wall greater than three feet; (2) 2.4.3.B.1 to reduce the overall green space from 33% to 11%; (3) 2.4.3.B.1 to encroach 15 feet into the 15 feet perimeter green space for the installation of proposed pavement; (4) 2.4.3.A to encroach 30 feet into the 30 feet rear structure setback for the construction of a retaining wall along the easterly lot line; (5) 2.4.3.B.1 to encroach 30 feet into the 30 feet into the perimeter green space to allow the existing pavement to remain; (6) 3.11.6.C.3 to allow a directional 22 SF directional sign where only 4 SF are allowed; (7) 3.11.6.D.3.b to allow 10 wall signs where only one is allowed (one additional on existing building and nine (9) on proposed building); and (8) 3.11.6.D.3.b to allow 359.1 SF of wall signage on various facades of the buildings where only 50 SF is permitted, 33 Nashua Road and Two Palmer Drive, Map 7, Lots 73-3 and 6, Zoned C-I and C-II, Five M's Real Estate Holdings, LLC and Five M's Office Properties Holdings, LLC (Owners & Applicants)

- (1) Request for a variance from LZO 2.4.3.A.1 to encroach into the 32 feet into the 60 feet structure setback for the construction of a retaining wall greater than three feet for 33 Nashua Road, Map 7 Lot 73-3

Member B. O'Brien made a motion in **CASE NO. 10/17/18-7** to grant the applicant's request for a variance from LZO 2.4.3.A.1 to encroach into the 32 feet into the 60 feet structure setback for the construction of a retaining wall greater than three feet on Lot 73-3, 33 Nashua Road, Map 7 Lot 73-and Two Palmer Drive, Map 7, Lots 73-3 and 6, Zoned C-I and C-II, Five M's Real Estate Holdings, LLC and Five M's Office Properties Holdings, LLC (Owners & Applicants) as presented with the condition that Lots 73-3 and 73-6 be consolidated.

Member B. Berardino seconded the motion.



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The motion was granted with conditions, 3-2-0. The applicant's request for a variance was granted.

- (2) Request for a variance from LZO 2.4.3.A.1 to encroach into the 32 feet into the 60 feet structure setback for the construction of a retaining wall greater than three feet for Two Palmer Drive, Map 7 Lot 73-6

Member B. O'Brien made a motion in **CASE NO. 10/17/18-7** to grant the applicant's request for a variance from LZO 2.4.3.A.1 to encroach into the 32 feet into the 60 feet structure setback for the construction of a retaining wall greater than three feet on Lot 73-6, 33 Nashua Road and Two Palmer Drive, Map 7, Lots 73-3 and 6, Zoned C-I and C-II, Five M's Real Estate Holdings, LLC and Five M's Office Properties Holdings, LLC (Owners & Applicants) as presented with the condition that Lots 73-3 and 73-6 be consolidated.

Member B. Berardino seconded the motion.

The motion was granted with conditions, 3-2-0. The applicant's request for a variance was granted.

- (3) Request for a variance from LZO 2.4.3.B.1 to reduce the overall green space from 33% to 11%, 33 Nashua Road, Map 7 Lot 73-3

Member B. O'Brien made a motion in **CASE NO. 10/17/18-7** to grant the applicant's request for a variance from LZO 2.4.3.B.1 to reduce the overall green space from 33% to 11% on Lot 73-3, 33 Nashua Road and Two Palmer Drive, Map 7, Lots 73-3 and 6, Zoned C-I and C-II, Five M's Real Estate Holdings, LLC and Five M's Office Properties Holdings, LLC (Owners & Applicants) as presented with the condition that Lots 73-3 and 73-6 be consolidated.

Member B. Berardino seconded the motion.

The motion was granted with conditions, 3-2-0. The applicant's request for a variance was granted.

- (4) Request for a variance from LZO 2.4.3.B.1 to reduce the overall green space from 33% to 11%, Two Palmer Drive, Map 7 Lot 73-6

Member B. O'Brien made a motion in **CASE NO. 10/17/18-7** to grant the applicant's request for a variance from LZO 2.4.3.B.1 to reduce the overall green space from 33% to 11% on Lot 73-6, 33 Nashua Road and Two Palmer Drive, Map 7, Lots 73-3 and 6, Zoned C-I and C-II, Five M's Real Estate Holdings, LLC and Five M's Office Properties Holdings, LLC (Owners & Applicants) as presented with the condition that Lots 73-3 and 73-6 be consolidated.

Member B. Berardino seconded the motion.

The motion was granted with conditions, 3-2-0. The applicant's request for a variance was granted.



TOWN OF LONDONDERRY
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- (5) Request for a variance from 2.4.3.B.1 to encroach 15 feet into the 15 feet perimeter green space for the installation of proposed pavement, 33 Nashua Road, Map 7 Lot 73-3

Member B. O'Brien made a motion in **CASE NO. 10/17/18-7** to grant the applicant's request for a variance from 2.4.3.B.1 to encroach 15 feet into the 15 feet perimeter green space for the installation of proposed pavement on Lot 73-3, 33 Nashua Road and Two Palmer Drive, Map 7, Lots 73-3 and 6, Zoned C-I and C-II, Five M's Real Estate Holdings, LLC and Five M's Office Properties Holdings, LLC (Owners & Applicants) as presented with the condition that Lots 73-3 and 73-6 be consolidated.

Member B. Berardino seconded the motion.

The motion was granted with conditions, 3-2-0. The applicant's request for a variance was granted.

- (6) Request for a variance from 2.4.3.B.1 to encroach 15 feet into the 15 feet perimeter green space for the installation of proposed pavement, Two Palmer Drive, Map 7 Lot 73-6

Member B. O'Brien made a motion in **CASE NO. 10/17/18-7** to grant the applicant's request for a variance from LZO 2.4.3.B.1 to encroach 15 feet into the 15 feet perimeter green space for the installation of proposed pavement on Lot 73-6, 33 Nashua Road and Two Palmer Drive, Map 7, Lots 73-3 and 6, Zoned C-I and C-II, Five M's Real Estate Holdings, LLC and Five M's Office Properties Holdings, LLC (Owners & Applicants) as presented with the condition that Lots 73-3 and 73-6 be consolidated.

Member B. Berardino seconded the motion.

The motion was granted with conditions, 3-2-0. The applicant's request for a variance was granted.

- (7) Request for a variance from 2.4.3.A to encroach 30 feet into the 30 feet rear structure setback for the construction of a retaining wall along the easterly lot line, 33 Nashua Road, Map 7 Lot 73-3

Member B. O'Brien made a motion in **CASE NO. 10/17/18-7** to grant the applicant's request for a variance from LZO 2.4.3.A to encroach 30 feet into the 30 feet rear structure setback for the construction of a retaining wall along the easterly lot line on Lot 73-3, 33 Nashua Road and Two Palmer Drive, Map 7, Lots 73-3 and 6, Zoned C-I and C-II, Five M's Real Estate Holdings, LLC and Five M's Office Properties Holdings, LLC (Owners & Applicants) as presented with the condition that Lots 73-3 and 73-6 be consolidated.

Member B. Berardino seconded the motion.

The motion was granted with conditions, 3-2-0. The applicant's request for a variance was granted.



TOWN OF LONDONDERRY
ZONING BOARD OF ADJUSTMENT

268B Mammoth Road, Londonderry, New Hampshire 03053
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- (8) Request for a variance from 2.4.3.A to encroach 30 feet into the 30 feet rear structure setback for the construction of a retaining wall along the easterly lot line, Two Palmer Drive, Map 7 Lot 73-6

Member B. O'Brien made a motion in **CASE NO. 10/17/18-7** to grant the applicant's request for a variance from LZO 2.4.3.A to encroach 30 feet into the 30 feet rear structure setback for the construction of a retaining wall along the easterly lot line in Lot 73-6, 33 Nashua Road and Two Palmer Drive, Map 7, Lots 73-3 and 6, Zoned C-I and C-II, Five M's Real Estate Holdings, LLC and Five M's Office Properties Holdings, LLC (Owners & Applicants) as presented with the condition that Lots 73-3 and 73-6 be consolidated.

Member B. Berardino seconded the motion.

The motion was granted with conditions, 3-2-0. The applicant's request for a variance was granted.

- (9) Request for a variance from LZO 2.4.3.B.1 to encroach 30 feet into the 30 feet into the perimeter green space to allow the existing pavement to remain, 33 Nashua Road, Map 7 Lot 73-3

Member B. O'Brien made a motion in **CASE NO. 10/17/18-7** to grant the applicant's request for a variance from LZO 2.4.3.B.1 to encroach 30 feet into the perimeter green space to allow the existing pavement to remain in Lot 73-3, 33 Nashua Road and Two Palmer Drive, Map 7, Lots 73-3 and 6, Zoned C-I and C-II, Five M's Real Estate Holdings, LLC and Five M's Office Properties Holdings, LLC (Owners & Applicants) as presented with the condition that Lots 73-3 and 73-6 be consolidated.

Member B. Berardino seconded the motion.

The motion was granted with conditions, 3-2-0. The applicant's request for a variance was granted.

- (10) Request for a variance from LZO 3.11.6.C.3 to allow a 22 SF directional sign where only 4 SF are allowed, 33 Nashua Road, Map 7 Lot 73-3

Member B. O'Brien made a motion in **CASE NO. 10/17/18-7** to deny the applicant's request for a variance from LZO 3.11.6.C.3 to allow a directional 22 SF directional sign where only 4 SF are allowed, on Lot 73-3, 33 Nashua Road and Two Palmer Drive, Map 7, Lots 73-3 and 6, Zoned C-I and C-II, Five M's Real Estate Holdings, LLC and Five M's Office Properties Holdings, LLC (Owners & Applicants) as presented with the condition that Lots 73-3 and 73-6 be consolidated.

Member B. Berardino seconded the motion.

The motion was denied 5-0-0. The applicant's request for a variance was denied.

The reasons for denial are as follows:



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268B Mammoth Road, Londonderry, New Hampshire 03053
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The granting of the variance would be contrary to the public interest as the sign would alter the character of the neighborhood and would threaten the safety of the area due to its size and location; the spirit of the ordinance would not be observed because the proposed directional sign would contribute to clutter and congestion; substantial justice would not be done because the loss to the public is greater than any gain to the applicant as the sign causes public safety concerns; there is a fair and substantial relationship between the general purpose of the ordinance and the specific application to that property as the general purpose of the ordinance is to prevent clutter, congestion and there is a fair and substantial relationship to reducing clutter and promoting safety in that area which is highly travelled as it relates to the property.

- (11) Request for a variance from LZO 3.11.6.D.3.b to allow one additional wall sign on the existing building, 33 Nashua Road, Map 7 Lot 73-3

Member B. O'Brien made a motion in **CASE NO. 10/17/18-7** to grant the applicant's request for a variance request from LZO 3.11.6.D.3.b to allow one additional sign to the existing building on Lot 73-3, 33 Nashua Road and Two Palmer Drive, Map 7, Lots 73-3 and 6, Zoned C-I and C-II, Five M's Real Estate Holdings, LLC and Five M's Office Properties Holdings, LLC (Owners & Applicants) as presented.

Member B. Berardino seconded the motion.

The motion was granted, 3-2-0. The applicant's request for a variance was granted.

- (12) Request for a variance from LZO 3.11.6.D.3.b to allow nine additional wall signs on a proposed building, Two Palmer Drive, Map 7 Lot 73-6

Member B. O'Brien made a motion in **CASE NO. 10/17/18-7** to grant the applicant's request for a variance request from LZO 3.11.6.D.3.b for Lot 73-6 to allow 8 wall signs for signs #1, 4, 7, 8, 9 as presented on Exhibit 5 and to deny the applicant's request for signs #2, 3, 5 as presented on Exhibit 5, 33 Nashua Road and Two Palmer Drive, Map 7, Lots 73-3 and 6, Zoned C-I and C-II, Five M's Real Estate Holdings, LLC and Five M's Office Properties Holdings, LLC (Owners & Applicants) with the condition that Lots 73-3 and 73-6 be consolidated.

Member S. Brunelle seconded the motion.

The motion was granted with conditions, 4-1-0. The applicant's request for a variance was granted in part and denied in part.

The reasons for the denial in part are as follows: The granting of the variance would be contrary to the public interest as the sign would alter the character of the neighborhood and would create clutter and congestion; the spirit of the ordinance would not be observed because all nine signs would contribute to clutter and congestion; substantial justice would not be done because the loss to the public is greater



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than any gain to the applicant as the additional signs are in direct violation of the ordinance; there is a fair and substantial relationship between the general purpose of the ordinance and the specific application to that property as the general purpose of the ordinance is to prevent clutter, congestion and there is a fair and substantial relationship to reducing clutter and congestion in that area which is highly travelled.

- (13) Request for a variance from LZO 3.11.6.D.3.b to allow 359.1 SF of wall signage on various facades of the buildings where only 50 SF is permitted, 33 Nashua Road, Map 7, Lot 73-3

Member B. O'Brien made a motion in **CASE NO. 10/17/18-7** to grant a variance request from LZO 3.11.6.D.3.b to allow 21 SF on Lot 73-3, 33 Nashua Road and Two Palmer Drive, Map 7, Lots 73-3 and 6, Zoned C-I and C-II, Five M's Real Estate Holdings, LLC and Five M's Office Properties Holdings, LLC (Owners & Applicants) as presented with the condition that Lot 73-3 and 73-6 be consolidated.

Member S. Brunelle seconded the motion.

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

- (14) Request for a variance from LZO 3.11.6.D.3.b to allow 359.1 SF of wall signage on various facades of the buildings where only 50 SF is permitted, Two Palmer Drive, Map 7, Lot 73-3

Member B. O'Brien made a motion in **CASE NO. 10/17/18-7** to grant a variance request from LZO 3.11.6.D.3.b to allow 225 SF of wall signage on various facades of the buildings where only 50 SF is permitted on Lot 73-6, 33 Nashua Road and Two Palmer Drive, Map 7, Lots 73-3 and 6, Zoned C-I and C-II, Five M's Real Estate Holdings, LLC and Five M's Office Properties Holdings, LLC (Owners & Applicants) as presented with the condition that Lots 73-3 and 73-6 be consolidated.

Member S. Brunelle seconded the motion.

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

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