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**TOWN OF LONDONDERRY
ZONING BOARD OF ADJUSTMENT
MOOSE HILL COUNCIL CHAMBERS
268B MAMMOTH ROAD
LONDONDERRY, NH 03053**

**MARCH 20, 2024, MEETING
7:00 P.M.**

I. CALL TO ORDER

Members Present: Suzanne Brunelle, Vice Chair; Mitchell Feig, Full Member; Irene Macarelli, Full Member; Chris Moore, Alternate Member

Also Present: Michael Malaguti, Town Manager; Nick Codner, Chief Building Inspector

Vice Chair Brunelle called the meeting to order at 7:00 p.m. and reviewed the meeting procedure. She noted there are not five Board members present and if any applicants do not wish to proceed, they are welcome to request a continuance of their case until the next hearing.

M. Feig moved to make C. Moore a voting member at this meeting. I. Macarelli seconded the motion. A vote was taken, all were in favor. The motion passed 4-0-0.

II. ROLL CALL

III. APPROVAL OF DRAFT MINUTES – FEBRUARY 21, 2024

M. Feig moved to accept the minutes of the February 21, 2024, meeting as written. C. Moore seconded the motion. A vote was taken, all were in favor. The motion passed 4-0-0.

IV. REPORT BY TOWN COUNCIL LIAISON

There was no report by the Town Council Liaison.

V. REGIONAL IMPACT DETERMINATIONS

M. Malaguti reported that none of the applications were of regional impact.

C. Moore moved to accept the regional impact determination. I. Macarelli seconded the motion. A vote was taken, all were in favor. The motion passed 4-0-0.

VI. PUBLIC HEARING OF CASES

49
50 **A. CASE NO. 02/21/2024-2 Request for a variance from LZO**
51 **section 8.2.A.2 to re-establish an existing non-confirming use**
52 **of a small machine parts and service use, after discontinuance**
53 **for one (1) year. The parcel is located at 347 Rockingham Rd in**
54 **the Residential (R-III) zoning district. Tax Map 17, Lot 17.**
55 **Thibeault Corporation of NE, (owner), & Vinnie Iacozzi,**
56 **(applicant).**
57

58 I. Macarelli read the case into the record. M. Malaguti noted the materials
59 submitted by the applicant at this meeting were not included with the application,
60 so will be attached as Exhibit A. The photographs submitted will be marked as
61 Exhibit B.
62

63 Kevin Smith, representing Thibeault Corporation of NE, and Vinnie Iacozzi,
64 applicant, appeared before the Board. K. Smith explained a similar variance request
65 was granted in 2018; however, the previous owners opted not to proceed with the
66 repurposing of the existing structure. He reviewed the background of this request
67 and noted that half of the building is located in Londonderry and half in Manchester,
68 which presents zoning challenges.
69

70 The applicant reviewed the five points:
71

72 1) The variance will not be contrary to the public interest, as it poses no harm to
73 public or private rights. It does not contravene fundamental zoning objectives. The
74 essential character of the neighborhood remains unchanged. Abutting property
75 values are expected to rise. The variance is in harmony with the Master Plan.
76

77 2) The spirit of the ordinance would be observed. The fundamental character of the
78 neighborhood remains unchanged, as the repair of the existing building does not
79 result in a new structure, but enhances the overall appeal of the property. The use
80 of the building and property is consistent with the use for the last 70 years. There is
81 no encroachment upon abutters. The safety and welfare of the public are not
82 compromised. The proposed use adheres to the Master Plan.
83

84 3) Granting the variance would do substantial justice, as it will enable the
85 reasonable use of the property in alignment with its historical use.
86

87 4) The values of the surrounding properties would not be diminished, given that the
88 proposed use aligns with past practices. The reconstruction of the building is poised
89 to enhance and possibly elevate the property values in the surrounding
90 neighborhood.
91

92 5) Owing to special conditions of the property that distinguish it from other
93 properties in the area, denial of the variance would result in unnecessary hardship
94 because (a) there is not a fair and substantial relationship between the general
95 public purpose of the ordinance provision and the specific application of the
96 provision to the property. The non-confirming building predates local zoning

97 regulations and spans two municipal lines, so without the variance, the existing
98 building cannot be repurposed. The proposed use aligns with the property's
99 historical use, despite the current zoning specifying multi-family housing. The
100 setback ordinance serves the purpose of safeguarding public and private rights,
101 particularly those of abutters. The application of the setbacks in multi-family
102 housing would not advance the public purpose, while imposing unnecessary
103 hardship on the property owner. And (b) the proposed use is reasonable, as it is
104 consistent with how this property has been used since the 1950s and does not
105 diminish the character of the neighborhood.

106
107 Vice Chair Brunelle asked for Board input.

108
109 C. Moore asked for the owner's vision for the property and V. Iacozzi described the
110 proposed design. Vice Chair Brunelle noted her concern that the building is very
111 close to a busy street. V. Iacozzi said the building is located between 22 and 40 feet
112 from the road. He explained they planned to landscape the front of the building and
113 place the parking lots on either side of the building.

114
115 Vice Chair Brunelle asked for public input; there was none.

116
117 I. Macarelli read two letters into the record from abutters supporting this variance
118 request.

119
120 M. Feig asked if there were traffic concerns and N. Codner said he did not see any.
121 M. Feig asked if the building could be located further from the road. V. Iacozzi
122 explained there is a steep slope behind the building. K. Smith noted due to the
123 town line going through the property, if the building is torn down, it would create
124 issues in that the city of Manchester would want to tax part of the building, as well
125 as the differing setback requirements between Londonderry and Manchester.

126
127 The Board closed public input and began deliberation.

128
129 1) Granting the variance would not be contrary to the public interest because it is in
130 line with the character of the neighborhood. It is a business area of Londonderry.
131 The Board voted 4-0-0 on this item.

132
133 2) The spirit of the ordinance would be observed because the health, safety, and
134 general welfare is not at risk due to the existing neighborhood being similar and the
135 parking lot being located at the side of the building. There would not be a danger to
136 oncoming traffic due to adequate sightlines. The Board voted 3-1-0 on this item.

137
138 3) Granting the variance would do substantial justice because the loss to the
139 applicant is significantly greater than any gain to the public. The Board voted 3-1-0
140 on this item.

141
142 4) The values of the surrounding properties would not be diminished because the
143 existing condition of the building is worse than anything that would replace it. The
144 Board voted 3-1-0 on this item.

145
146 5) Owing to special conditions of the property that distinguish it from other
147 properties in the area, denial of the variance would result in an unnecessary
148 hardship because (a) there is not a fair and substantial relationship between the
149 general public purpose of the ordinance provision and the specific application of
150 that provision to the property because the building cuts through the town line, the
151 existing structure would be difficult and economically unfeasible to relocate on the
152 property, and the uniqueness of the property makes it difficult to enforce the
153 ordinance. And (b) the proposed use is a reasonable one because a parts business
154 is reasonable at this location. The Board voted 3-1-0 on this item.

155
156 **M. Feig made a motion in Case No. 02/21/2024-2 that the request for a**
157 **variance from LZO section 8.2.A.2 to re-establish an existing non-**
158 **confirming use of a small machine parts and service use, after**
159 **discontinuance for one (1) year be approved. C. Moore seconded the**
160 **motion. A vote was taken. The motion was granted 3-1-0. The applicant's**
161 **request for a variance was GRANTED.**

162
163 **B. CASE NO. 02/21/2024-3 Request for a variance from LZO**
164 **section 8.2.A.4 to rebuild a parts and service use after damage**
165 **exceeding seventy-five (75) percent of its replacement value.**
166 **The parcel is located at 347 Rockingham Rd in the Residential**
167 **(R-III) zoning district. Tax Map 17, Lot 17. Thibeault**
168 **Corporation of NE, (owner), & Vinnie Iacozzi, (applicant).**

169
170 I. Macarelli read the case into the record. M. Malaguti noted the materials
171 submitted by the applicant at this meeting were not included with the application,
172 so will be attached as Exhibit A. The photographs submitted will be marked as
173 Exhibit B.

174
175 Kevin Smith, representing Thibeault Corporation of NE, and Vinnie Iacozzi,
176 applicant, appeared before the Board to request a variance. K. Smith noted this
177 variance is to rebuild the building, which sustained fire damage exceeding 75% of
178 the replacement value. They believe it meets all five criteria as were previously
179 listed.

180
181 He said the current owner took ownership of the property in November 2023 and
182 has moved quickly to bring it into compliance. He noted this property and that to
183 the south of it are zoned multi-family. They believe developing multi-family housing
184 would be substantially more contrary to the area than repurposing the building.

185
186 Vice Chair Brunelle asked for public input; there was none.

187
188 The same two letters from abutters read in the preceding case supporting this
189 variance also apply to this request.

190

191 M. Feig asked what classifies the 75% amount. V. Iacozzi said he believes there is a
192 formula in the Town ordinance. M. Malaguti clarified they relied on N. Codner’s
193 opinion, who said he relied on the previous case.
194

195 The Board closed public input and began deliberation.
196

197 1) Granting the variance would not be contrary to the public interest because it will
198 not alter the character of the neighborhood. The Board voted 4-0-0 on this item.
199

200 2) The spirit of the ordinance would be observed because public health, safety, and
201 general welfare is not at risk due to the existing neighborhood being similar and the
202 parking lot being located at the side of the building. There would not be a danger to
203 oncoming traffic due to adequate sightlines. The Board voted 3-1-0 on this item.
204

205 3) Granting the variance would do substantial justice because the loss to the
206 applicant is significantly greater than any gain to the public. The Board voted 3-1-0
207 on this item.
208

209 4) The values of the surrounding properties would not be diminished because the
210 existing condition of the building is worse than anything that would replace it. The
211 Board voted 3-1-0 on this item.
212

213 5) Owing to special conditions of the property that distinguish it from other
214 properties in the area, denial of the variance would result in an unnecessary
215 hardship because (a) there is not a fair and substantial relationship between the
216 general public purpose of the ordinance provision and the specific application of
217 that provision to the property because the building cuts through the town line, the
218 existing structure would be difficult and economically unfeasible to push back on
219 the property, and the uniqueness of the property makes it difficult to enforce the
220 ordinance. And (b) the proposed use is a reasonable one because a parts business
221 is reasonable at this location. The Board voted 3-1-0 on this item.
222

223 **C. Moore made a motion in Case No. 02/21/2024-3, request for a variance**
224 **from LZO section 8.2.A.4 to rebuild a parts and service use after damage**
225 **exceeding seventy-five (75) percent of its replacement value to grant the**
226 **variance. M. Feig seconded the motion. A vote was taken. The motion was**
227 **granted 3-1-0. The applicant's request for a variance was GRANTED.**
228

229 **C. CASE NO. 02/21/2024-4 Request for a variance from LZO**
230 **section 4.1.2 to allow a contractor yard, parts and service**
231 **distribution operation in the R-III zoning district. The parcel is**
232 **located at 347 Rockingham Rd in the Residential (R-III) zoning**
233 **district. Tax Map 17, Lot 17. Thibeault Corporation of NE,**
234 **(owner), & Vinnie Iacozzi, (applicant).**
235

236 I. Macarelli read the case into the record. M. Malaguti noted the materials
237 submitted by the applicant at this meeting were not included with the application,

238 so will be attached as Exhibit A. The photographs submitted will be marked as
239 Exhibit B.

240
241 Kevin Smith, representing Thibeault Corporation of NE, and Vinnie Iacozzi,
242 applicant, appeared before the Board to request a variance. K. Smith said this use
243 is consistent with the business previously located on this site, which was a small
244 machine parts and repair shop. V. Iacozzi added he has a longstanding relationship
245 with the proposed tenant, who supplies parts to the construction industry. He owns
246 the abutting property and take pride in maintaining it.

247
248 Vice Chair Brunelle asked for a definition of a contractor yard. V. Iacozzi said this
249 was an error and asked to strike this from the application; there will be no
250 construction materials or equipment stored outside. C. Moore asked if hazardous
251 materials will be stored inside the building and V. Iacozzi said there would not be.

252
253 The same two letters from abutters read in the preceding cases supporting this
254 variance also apply to this request.

255
256 Vice Chair Brunelle asked for public input.

257
258 Ray Breslin, 3 Gary Drive, asked if the rest of the property will be developed or if
259 this project only affects the existing building. Vice Chair Brunelle clarified this. R.
260 Breslin expressed his concern regarding traffic on a busy road.

261
262 The Board closed public input and began deliberation.

263
264 1) Granting the variance would not be contrary to the public interest because it will
265 not alter the character of the neighborhood. The Board voted 4-0-0 on this item.

266
267 2) The spirit of the ordinance would be observed because public health, safety, and
268 general welfare is not at risk due to the existing neighborhood being similar and the
269 parking lot being located at the side of the building. There would not be a danger to
270 oncoming traffic due to adequate sightlines. The Board voted 3-1-0 on this item.

271
272 3) Granting the variance would do substantial justice because the loss to the
273 applicant is significantly greater than any gain to the public. The Board voted 3-1-0
274 on this item.

275
276 4) The values of the surrounding properties would not be diminished because the
277 existing condition of the building is worse than anything that would replace it. The
278 Board voted 3-1-0 on this item.

279
280 5) Owing to special conditions of the property that distinguish it from other
281 properties in the area, denial of the variance would result in an unnecessary
282 hardship because (a) there is not a fair and substantial relationship between the
283 general public purpose of the ordinance provision and the specific application of
284 that provision to the property because the building cuts through the town line, the
285 existing structure would be difficult and economically unfeasible to relocate on the

286 property, and the uniqueness of the property makes it difficult to enforce the
287 ordinance. And (b) the proposed use is a reasonable one because a parts business
288 is reasonable at this location. The Board voted 3-1-0 on this item.
289

290 **C. Moore made a motion in Case No. 02/21/2024-4 to approve the request**
291 **for a variance from LZO section 4.1.2 to allow a contractor yard, parts and**
292 **service distribution operation in the R-III zoning district. I. Macarelli**
293 **seconded the motion. A vote was taken. The motion was granted 3-1-0.**
294 **The applicant's request for a variance was GRANTED.**
295

296 **D. CASE NO. 03/20/2024-1 Request for a variance from LZO**
297 **section 4.3.3.B.1 to allow a fifteen (15) foot front green space**
298 **area whereas thirty (30) feet is required. The parcel is located**
299 **at 83 Nashua Road in the Commercial I (C- I) zoning district.**
300 **Tax Map 7, Lot 130. CM-Londonderry, LLC (Owners) &**
301 **Benchmark LLC (Applicants).**
302

303 I. Macarelli read the case into the record.
304

305 Chris Drescher of Cronin Bisson & Zalinsky and Joe Maynard of Benchmark LLC
306 appeared before the Board. J. Maynard said the Board granted approval for a self-
307 storage facility on this property over a year ago, which was not built. The current
308 plan is to merge two lots and subdivide them into three properties. They are
309 requesting a variance to allow a reduction in the green space requirement on the
310 frontage of the road. The location of wetlands limits the development potential of
311 the property.
312

313 The applicant reviewed the five points:
314

315 1) The variance will not be contrary to the public interest, as it will not threaten the
316 health, safety, or general welfare of the public or alter the essential character of the
317 neighborhood. The project is commercial, so this use is allowed.
318

319 2) The spirit of the ordinance would be observed, as this is a commercial zone and
320 the use is allowed. There will be green space along the highway. It will not threaten
321 the health, safety, or general welfare of the public or alter the essential character of
322 the neighborhood.
323

324 3) Granting the variance would do substantial justice, as the loss to the applicant
325 would be significant. There is an abandoned house on the property, so removing
326 that will help the area.
327

328 4) The values of the surrounding properties would not be diminished, as there is an
329 abandoned house on the property that will be removed.
330

331 5) Owing to special conditions of the property that distinguish it from other
332 properties in the area, denial of the variance would result in unnecessary hardship
333 because (a) there is not a fair and substantial relationship between the general

334 public purpose of the ordinance provision and the specific application of the
335 provision to the property. A special condition is the unique configuration of the lot.
336 They do not believe the frustration of the ordinance will be to a marked degree or
337 overly unreasonable. And (b) the proposed use is reasonable, as it is a commercial
338 use in a commercial zone. Due to the constraints of the ordinance and the
339 challenges of the property, it is difficult to make a reasonable use of this property
340 without a variance.

341
342 Vice Chair Brunelle asked for Board input.

343
344 C. Moore asked for clarification regarding the layout and proposed development on
345 the property and J. Maynard provided it. C. Moore asked if this variance request is
346 to allow space for parking. J. Maynard said to obtain a viable yield from this
347 property, a certain size building is required, which will require a specific number of
348 parking spaces. The ability to develop this property is impacted by the wetlands at
349 the rear of the site and the associated setbacks.

350
351 Vice Chair Brunelle asked for public input; there was none.

352
353 The Board closed public input and began deliberation.

354
355 1) Granting the variance would not be contrary to the public interest because it will
356 not alter the character of the neighborhood. Other buildings in the area have the
357 same type of setback. The Board voted 4-0-0 on this item.

358
359 2) The spirit of the ordinance would be observed because it does not threaten the
360 health, safety, or general welfare of the public. The Board voted 3-1-0 on this item.

361
362 3) Granting the variance would do substantial justice because in order to use this
363 property, variances are required. The green space will not cause injustice to the
364 public. The loss to the applicant is greater than any gain to the public. The Board
365 voted 4-0-0 on this item.

366
367 4) The values of the surrounding properties would not be diminished because it is a
368 commercial property in a commercial district. The Board voted 4-0-0 on this item.

369
370 5) Owing to special conditions of the property that distinguish it from other
371 properties in the area, denial of the variance would result in an unnecessary
372 hardship because (a) there is not a fair and substantial relationship between the
373 general public purpose of the ordinance provision and the specific application of
374 that provision to the property because the property is unique. And (b) the proposed
375 use is a reasonable one because it is a commercial property in a commercial area.
376 The Board voted 4-0-0 on this item.

377
378 **I. Macarelli moved in Case No. 03/20/2024-1, request for a variance from**
379 **LZO section 4.3.3.B.1 to allow a fifteen (15) foot front green space area**
380 **whereas thirty (30) feet is required, to grant the request. M. Feig seconded**

381 **the motion. A vote was taken. The motion was granted 3-1-0. The**
382 **applicant's request for a variance was GRANTED.**

383
384 **E. CASE NO. 03/20/2024-2 Request for a variance from LZO**
385 **section 4.3.3.B.1 to allow a fifteen (15) foot front green space**
386 **area whereas thirty (30) feet is required. The parcel is located**
387 **at 77 Nashua Road in the Commercial I (C- I) zoning district.**
388 **Tax Map 7, Lot 129. CM-Londonderry, LLC (Owners) &**
389 **Benchmark LLC (Applicants).**

390
391 I. Macarelli read the case into the record.

392
393 Chris Drescher of Cronin Bisson & Zalinsky and Joe Maynard of Benchmark LLC
394 appeared before the Board. C. Drescher asked for the same relief from the same
395 section as the previous variance request, but on the adjoining lot. They believe it
396 does meet all five criteria, as listed previously.

397
398 Vice Chair Brunelle asked for public input; there was none.

399
400 The Board closed public input and began deliberation.

401
402 1) Granting the variance would not be contrary to the public interest because it will
403 not alter the character of the neighborhood. Other buildings in the area have the
404 same type of setback. The Board voted 4-0-0 on this item.

405
406 2) The spirit of the ordinance would be observed because it does not threaten the
407 health, safety, or general welfare of the public. The Board voted 3-1-0 on this item.

408
409 3) Granting the variance would do substantial justice because in order to use this
410 property, variances are required. The green space will not cause injustice to the
411 public. The loss to the applicant is greater than any gain to the public. The Board
412 voted 4-0-0 on this item.

413
414 4) The values of the surrounding properties would not be diminished because it is a
415 commercial property in a commercial district. The Board voted 4-0-0 on this item.

416
417 5) Owing to special conditions of the property that distinguish it from other
418 properties in the area, denial of the variance would result in an unnecessary
419 hardship because (a) there is not a fair and substantial relationship between the
420 general public purpose of the ordinance provision and the specific application of
421 that provision to the property because the property is unique, considering the
422 wetlands and the oddly-shaped lot. And (b) the proposed use is a reasonable one
423 because it is a commercial property in a commercial area. The Board voted 4-0-0
424 on this item.

425
426 **M. Feig moved in Case No. 03/20/2024-2, request for a variance from LZO**
427 **section 4.3.3.B.1 to allow a fifteen (15) foot front green space area**
428 **whereas thirty (30) feet is required to approve the request. I. Macarelli**

429 **seconded the motion. A vote was taken. The motion was granted 3-1-0.**
430 **The applicant's request for a variance was GRANTED.**

431
432 **F. CASE NO. 03/20/2024-3 Request for a variance from LZO**
433 **section 4.3.3.A to allow a thirty-five (35) foot front setback**
434 **from Route 102 and forty-six (46) foot front setback from**
435 **Mcallister Road whereas sixty (60) feet is required. The parcel**
436 **is located at 77 Nashua Road in the Commercial I (C- I) zoning**
437 **district. Tax Map 7, Lot 129. CM-Londonderry, LLC (Owners) &**
438 **Benchmark LLC (Applicants).**

439
440 I. Macarelli read the case into the record.

441
442 Chris Drescher of Cronin Bisson & Zalinsky and Joe Maynard of Benchmark LLC
443 appeared before the Board. J. Maynard described the unique characteristics of the
444 property.

445
446 Vice Chair Brunelle asked about the size of the proposed building and J. Maynard
447 explained this size is required to make it viable economically, due to construction
448 costs. He said the proposal meets the parking requirements of the ordinance.

449
450 The applicant reviewed the five points.

451
452 1) The variance will not be contrary to the public interest, as it will not threaten the
453 health, safety, or general welfare of the public or alter the essential character of the
454 neighborhood. The project is commercial, so the use is allowed. He noted the
455 existing building is even more egregiously violating the setback.

456
457 2) The spirit of the ordinance would be observed as this is a commercial zone and
458 the use is allowed. It will not threaten the health, safety, or general welfare of the
459 public or alter the essential character of the neighborhood.

460
461 3) Granting the variance would do substantial justice, as the loss to the applicant
462 would be significant. The public would gain nothing from the denial.

463
464 4) The values of the surrounding properties would not be diminished, as there is an
465 abandoned house on the property that will be removed. It will be an economic
466 boost for the area.

467
468 5) Owing to special conditions of the property that distinguish it from other
469 properties in the area, denial of the variance would result in unnecessary hardship
470 because (a) there is not a fair and substantial relationship between the general
471 public purpose of the ordinance provision and the specific application of the
472 provision to the property. The ordinance is not frustrated to a marked degree. And
473 (b) the proposed use is reasonable, as it is a commercial use in a commercial zone.
474 Due to the constraints of the ordinance and the challenges of the property, it is
475 difficult to make a reasonable use of this property without a variance.

476

477 Vice Chair Brunelle asked for public input; there was none.

478

479 The Board closed public input and began deliberation.

480

481 1) Granting the variance would not be contrary to the public interest because it will
482 not alter the character of the neighborhood in a negative way. The Board voted 4-
483 0-0 on this item.

484

485 2) The spirit of the ordinance would be observed because it does not threaten the
486 health, safety, or general welfare of the public. The Board voted 4-0-0 on this item.

487

488 3) Granting the variance would do substantial justice because it will allow the
489 property owner to redevelop commercial land with a new building in generally the
490 same location. The loss to the applicant is greater than any gain to the public. The
491 Board voted 4-0-0 on this item.

492

493 4) The values of the surrounding properties would not be diminished because it is a
494 commercial building in a commercial district. The Board voted 4-0-0 on this item.

495

496 5) Owing to special conditions of the property that distinguish it from other
497 properties in the area, denial of the variance would result in an unnecessary
498 hardship because (a) there is not a fair and substantial relationship between the
499 general public purpose of the ordinance provision and the specific application of
500 that provision to the property because the building envelope is very small due to
501 the constrictions of the wetlands and sewer line easement, which makes the
502 property unique. And (b) the proposed use is a reasonable one because it is a
503 commercial property in a commercial area. The Board voted 4-0-0 on this item.

504

505 **I. Macarelli made a motion in Case No. 03/20/2024-3, request for a**
506 **variance from LZO section 4.3.3.A to allow a thirty-five (35) foot front**
507 **setback from Route 102 and forty-six (46) foot front setback from**
508 **Mcallister Road whereas sixty (60) feet is required, to grant the request.**
509 **M. Feig seconded the motion. A vote was taken. The motion was granted 4-**
510 **0-0. The applicant's request for a variance was GRANTED.**

511

512 **G. CASE NO. 03/20/2024-4 Request for a variance from LZO**
513 **section 4.3.3.B.2 to allow a thirty (30) foot setback from the**
514 **side lot lines whereas a fifty (50) foot landscape buffer is**
515 **required. The parcel is located at 77 Nashua Road in the**
516 **Commercial I (C- I) zoning district. Tax Map 7, Lot 129. CM-**
517 **Londonderry, LLC (Owners) & Benchmark LLC (Applicants).**

518

519 I. Macarelli read the case into the record.

520

521 Chris Drescher of Cronin Bisson & Zalinsky and Joe Maynard of Benchmark LLC
522 appeared before the Board. J. Maynard explained that as the abutting property is
523 zone C-I, the setback on that side is 30 feet, while the setback is 50 feet from the
524 condominiums. This fragments the buildable area of the lot. They are requesting a

525 30-foot setback, which would be the setback required in a commercial zone. Due to
526 the restrictions of the lot, the building cannot be located in another spot.

527
528 The applicant reviewed the five points.

529
530 1) The variance will not be contrary to the public interest, as it will not threaten the
531 health, safety, or general welfare of the public or alter the essential character of the
532 neighborhood. It is a commercial property in a commercial zone.

533
534 2) The spirit of the ordinance would be observed as this is a commercial property in
535 a commercial zone. It will not threaten the health, safety, or general welfare of the
536 public or alter the essential character of the neighborhood.

537
538 3) Granting the variance would do substantial justice, as the loss to the applicant
539 would be greater than any gain to the public.

540
541 4) The values of the surrounding properties would not be diminished, as there is an
542 abandoned house on the property that will be removed. It will be an economic
543 boost for the area.

544
545 5) Owing to special conditions of the property that distinguish it from other
546 properties in the area, denial of the variance would result in unnecessary hardship
547 because (a) there is not a fair and substantial relationship between the general
548 public purpose of the ordinance provision and the specific application of the
549 provision to the property. The ordinance is not frustrated to a marked degree. And
550 (b) the proposed use is reasonable, as it is a commercial use in a commercial zone.
551 Due to the constraints of the ordinance and the challenges of the property, it is
552 difficult to make a reasonable use of this property without a variance.

553
554 Vice Chair Brunelle asked for public input; there was none.

555
556 The Board closed public input and began deliberation.

557
558 1) Granting the variance would not be contrary to the public interest because it will
559 not alter the character of the neighborhood in a negative way. The Board voted 4-
560 0-0 on this item.

561
562 2) The spirit of the ordinance would be observed because they are making a
563 reasonable effort to maintain the barrier between the AR-I zone and their property.
564 It does not threaten the health, safety, or general welfare of the public. The Board
565 voted 4-0-0 on this item.

566
567 3) Granting the variance would do substantial justice because it will allow the
568 property owner to redevelop commercial land with a new building in generally the
569 same location. The loss to the applicant is greater than any gain to the public. The
570 Board voted 4-0-0 on this item.

571

572 4) The values of the surrounding properties would not be diminished because it is a
573 commercial building in a commercial district. The Board voted 4-0-0 on this item.

574
575 5) Owing to special conditions of the property that distinguish it from other
576 properties in the area, denial of the variance would result in an unnecessary
577 hardship because (a) there is not a fair and substantial relationship between the
578 general public purpose of the ordinance provision and the specific application of
579 that provision to the property because the building envelope is very small due to
580 the constrictions of the wetlands and sewer line easement, which makes the
581 property unique. And (b) the proposed use is a reasonable one because it is a
582 commercial property in a commercial area. The Board voted 4-0-0 on this item.

583
584 **I. Macarelli made a motion in Case No. 03/20/2024-4, request for a**
585 **variance from LZO section 4.3.3.B.2 to allow a thirty (30) foot setback from**
586 **the side lot lines whereas a fifty (50) foot landscape buffer is required, to**
587 **grant the request. C. Moore seconded the motion. A vote was taken. The**
588 **motion was granted 4-0-0. The applicant's request for a variance was**
589 **GRANTED.**

590
591 The Board took a five-minute recess.

592
593 **H. CASE NO. 03/20/2024-5 Request for a variance from LZO**
594 **section 4.3.3.B.2 to allow a walkway twenty (20) feet, a**
595 **parking area thirty (30) feet, and a fenced-in dumpster area**
596 **forty (40) feet from the lot lines whereas a fifty (50) foot**
597 **landscape buffer is required. The parcel is located at 77 Nashua**
598 **Road in the Commercial I (C- I) zoning district. Tax Map 7, Lot**
599 **129. CM-Londonderry, LLC (Owners) & Benchmark LLC**
600 **(Applicants).**

601
602 I. Macarelli read the case into the record.

603
604 Chris Drescher of Cronin Bisson & Zalinsky and Joe Maynard of Benchmark LLC
605 appeared before the Board. J. Maynard explained the Fire Department required a
606 turnaround area, so this was incorporated into the plans. They also requested a
607 walkway to access an emergency exit at the rear of the building.

608
609 C. Moore asked about the intended use of the building. J. Maynard said it is difficult
610 to market a project without approval. It will be a use that is allowed in the district.

611
612 The applicant reviewed the five points.

613
614 1) The variance will not be contrary to the public interest, as it will not threaten the
615 health, safety, or general welfare of the public or alter the essential character of the
616 neighborhood. The requested changes are to address public safety issues.

617

618 2) The spirit of the ordinance would be observed as this will not threaten the
619 health, safety, or general welfare of the public or alter the essential character of the
620 neighborhood.

621
622 3) Granting the variance would do substantial justice, as the loss to the applicant
623 would be greater than any gain to the public.

624
625 4) The values of the surrounding properties would not be diminished, as there is an
626 abandoned house on the property that will be removed. It will be an economic
627 boost for the area.

628
629 5) Owing to special conditions of the property that distinguish it from other
630 properties in the area, denial of the variance would result in unnecessary hardship
631 because (a) there is not a fair and substantial relationship between the general
632 public purpose of the ordinance provision and the specific application of the
633 provision to the property. The ordinance is not frustrated to a marked degree. And
634 (b) the proposed use is reasonable, as it is a commercial use in a commercial zone.
635 Due to the constraints of the ordinance and the challenges of the property, it is
636 difficult to make a reasonable use of this property without a variance.

637
638 Vice Chair Brunelle asked for public input; there was none.

639
640 The Board closed public input and began deliberation.

641
642 1) Granting the variance would not be contrary to the public interest because it will
643 not alter the character of the neighborhood in a negative way. The Board voted 4-
644 0-0 on this item.

645
646 2) The spirit of the ordinance would be observed because they are making a
647 reasonable effort to maintain the barrier between the AR-I zone and their property.
648 It does not threaten the health, safety, or general welfare of the public. The Board
649 voted 4-0-0 on this item.

650
651 3) Granting the variance would do substantial justice because it will allow the
652 property owner to redevelop commercial land with a new building in generally the
653 same location. The loss to the applicant is greater than any gain to the public. The
654 Board voted 4-0-0 on this item.

655
656 4) The values of the surrounding properties would not be diminished because it is a
657 commercial building in a commercial district. The Board voted 4-0-0 on this item.

658
659 5) Owing to special conditions of the property that distinguish it from other
660 properties in the area, denial of the variance would result in an unnecessary
661 hardship because (a) there is not a fair and substantial relationship between the
662 general public purpose of the ordinance provision and the specific application of
663 that provision to the property because the building envelope is very small due to
664 the constrictions of the wetlands and sewer line easement, which make the

665 property unique. And (b) the proposed use is a reasonable one because it is a
666 commercial property in a commercial area. The Board voted 4-0-0 on this item.

667
668 **X made a motion in Case No. 03/20/2024-5, request for a variance from**
669 **LZO section 4.3.3.B.2 to allow a walkway twenty (20) feet, a parking area**
670 **thirty (30) feet, and a fenced-in dumpster area forty (40) feet from the lot**
671 **lines whereas a fifty (50) foot landscape buffer is required, to grant the**
672 **request. C. Moore seconded the motion. A vote was taken. The motion was**
673 **granted 4-0-0. The applicant's request for a variance was GRANTED.**

674
675 **I. CASE NO. 03/20/2024-6 Request for a variance from LZO**
676 **section 4.6.1.3.B to allow parking and grading for a detention**
677 **pond within one hundred (100) feet of Indian Brook and within**
678 **fifty (50) feet of the wetland setback whereas parking and**
679 **grading are not permitted in the wetland setbacks. The parcel**
680 **is located at 77 Nashua Road in the Commercial I (C- I) zoning**
681 **district. Tax Map 7, Lot 129. CM-Londonderry, LLC (Owners) &**
682 **Benchmark LLC (Applicants).**

683
684 I. Macarelli read the case into the record.

685
686 Chris Drescher of Cronin Bisson & Zalinsky and Joe Maynard of Benchmark LLC
687 appeared before the Board. J. Maynard explained the sewer line easement was
688 negotiated before the wetland setbacks were established, and is located adjacent to
689 the brook. There is no vegetation in the area and runoff flows through this section
690 to the brook. The parking area will be curbed and the runoff will be collected in a
691 detention pond at the rear of the site. Some vegetation will be reestablished.

692
693 He noted this project will need full Planning Board review and a number of permits.
694 The Conservation Commission approved dredge and fill on the property across
695 Madison Way as part of the initial application. He explained that if he attempted to
696 avoid wetland impact, he would lose half of the parking lot and have to reduce the
697 size of the building, which would impact the financial viability of the project.

698
699 The applicant reviewed the five points.

700
701 1) The variance will not be contrary to the public interest, as it will not threaten the
702 health, safety, or general welfare of the public or alter the essential character of the
703 neighborhood. This is a commercial use in a commercial area. Landscaping will be
704 added to mitigate the buffer impacts.

705
706 2) The spirit of the ordinance would be observed as this will not threaten the
707 health, safety, or general welfare of the public or alter the essential character of the
708 neighborhood. The easement is more detrimental to the wetlands than this project.
709 Drainage mitigation efforts have been made and landscaping added to fortify the
710 buffer.

711

712 3) Granting the variance would do substantial justice, as the loss to the applicant
713 would be greater than any gain to the public.

714
715 4) The values of the surrounding properties would not be diminished, as there is an
716 abandoned house on the property that will be removed. It will be an economic
717 boost for the area.

718
719 5) Owing to special conditions of the property that distinguish it from other
720 properties in the area, denial of the variance would result in unnecessary hardship
721 because (a) there is not a fair and substantial relationship between the general
722 public purpose of the ordinance provision and the specific application of the
723 provision to the property. The lot predates zoning. The ordinance is not frustrated
724 to a marked degree. And (b) the proposed use is reasonable, as it is a commercial
725 use in a commercial zone. Due to the constraints of the ordinance and the
726 challenges of the property, it is difficult to make a reasonable use of this property
727 without a variance. They have attempted to minimize affecting the setback.

728
729 Vice Chair Brunelle asked how far the project will encroach on the buffer. J.
730 Maynard said it will not encroach any further than the sewer line easement.

731
732 Vice Chair Brunelle asked for public input; there was none.

733
734 The Board discussed whether this case should be presented to the Conservation
735 Commission before a decision is made on the variance request. Vice Chair Brunelle
736 asked the applicant if he was willing to continue the case in order to obtain
737 information from the Conservation Commission and he agreed.

738
739 **M. Feig moved in Case No. 03/20/2024-6, request for a variance from LZO**
740 **section 4.6.1.3.B to allow parking and grading for a detention pond within**
741 **one hundred (100) feet of Indian Brook and within fifty (50) feet of the**
742 **wetland setback whereas parking and grading are not permitted in the**
743 **wetland setbacks, to be continued at the request of the applicant to the**
744 **next meeting of the ZBA, April 17, 2024. C. Moore seconded the motion. A**
745 **vote was taken. The motion was granted 4-0-0.**

746
747 **J. CASE NO. 03/20/2024-7 Request for a variance from LZO**
748 **section 4.2.1.3.C.3 to allow encroachment of a pool shed into**
749 **the fifteen (15) foot rear setback. The parcel is located at 1**
750 **Chase Brook Road in the Agricultural-Residential (AR- 1)**
751 **zoning district. Tax Map 11, Lot 24-1. Timothy Marion (Owner &**
752 **Applicant).**

753
754 I. Macarelli read the case into the record. M. Malaguti noted the materials
755 distributed by the applicant at this meeting will be marked as Exhibit A.

756
757 Timothy Marion appeared before the Board to request approval for encroachment
758 into the rear setback to construct a pool shed, due to the location of the leach field
759 and septic tank.

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The applicant reviewed the five points:

- 1) The variance will not be contrary to the public interest because they are not doing any harm to neighbors nor is the shed visible from the street. They will plant privacy trees closest to the nearest neighbor.
- 2) The spirit of the ordinance would be observed because the setbacks were designed to protect neighbors, while leaving enough space for the Fire Department to access the property. There is at least 150 feet between the neighbors.
- 3) Granting the variance would do substantial justice because if approved, it will increase the value of the home and assessment, increasing Town revenue while disturbing no one.
- 4) The values of the surrounding properties would not be diminished because the shed will not be visible to any abutters or from the street.
- 5) Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because (a) there is not a fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of the provision to the property. The purpose of the setbacks is already achieved by the relationship and spacing between the homes and where the home is located on the property. And (b) the proposed use is reasonable, as pool sheds are common in the neighborhood. It is not possible for it to be in any other location due to the placement of the septic tank and the leach field.

T. Marion clarified the shed will be 20' x 26' and located 1 foot and 11 feet from the property line. He noted there is not a close neighbor behind the property. He has a certified plot plan, so is aware of the location of the property line.

M. Feig asked why the shed needs to be this size. T. Marion explained what will be stored in the shed and that he wants to make the best use of the available space.

Vice Chair Brunelle asked for public comment.

Gary Laconto (sp), 115 Litchfield Road, said he is oblivious to what is going on regarding this plan. The Board shared the schematics. Mr. Laconto said the shed being one foot from the property line bothers him. He asked if that would impede the retail value of his property. Vice Chair said they cannot answer this question.

I. Macarelli read a letter from an abutter into the record in support of this variance request.

The Board closed public input and began deliberation.

- 807 1) Granting the variance would not be contrary to the public interest because it will
808 not alter the character of the neighborhood.
809
- 810 2) The spirit of the ordinance would be observed because there is no risk to the
811 health, safety, and general welfare of the public.
812
- 813 3) Granting the variance would do substantial justice because the loss to the
814 applicant would be greater than the gain to the public, if this request were denied.
815
- 816 4) The values of the surrounding properties would not be diminished because the
817 shed is mostly out of sight.
818
- 819 5) Owing to special conditions of the property that distinguish it from other
820 properties in the area, denial of the variance would result in an unnecessary
821 hardship because (a) there is not a fair and substantial relationship between the
822 general public purpose of the ordinance provision and the specific application of
823 that provision to the property, as the shed cannot be located elsewhere due to the
824 location of the leach field, septic tank, pool, and house. And (b) the proposed use is
825 a reasonable one because sheds are reasonable.
826

827 **I. Macarelli moved in Case No. 03/20/2024-7, request for a variance from**
828 **LZO section 4.2.1.3.C.3 to allow encroachment of a pool shed no more than**
829 **fourteen (15) feet into the rear setback, to grant the request. C. Moore**
830 **seconded the motion. A vote was taken. The motion was granted 4-0-0.**
831 **The applicant's request for a variance was GRANTED.**
832

833 Vice Chair Brunelle recused herself from the following two cases.
834

835 **S. Brunelle moved to appoint M. Feig as acting Chair. C. Moore seconded**
836 **the motion. A vote was taken. The motion was granted 4-0-0.**
837

838 **K. CASE NO. 03/20/2024-8 Request for a variance from LZO**
839 **section 5.18.H.2 to allow an accessory dwelling unit to be**
840 **located in the front yard of the property whereas accessory**
841 **dwelling units are permitted in the side or rear yard. The parcel**
842 **is located at 5 Noyes Road in the Agricultural-Residential (AR-**
843 **1) zoning district. Tax Map 12, Lot 92-2. Laura and James Tebo**
844 **(Owners) & Sebastian Rossino (Applicant).**
845

846 I. Macarelli read the case into the record.
847

848 Laura Gandia of Devine Millimet and Sebastian Rossino, son-in-law, appeared
849 before the Board. L. Gandia explained the daughter and son-in-law of Mr. and Mr.
850 Tebo wish to build a primary dwelling on the lot and make the existing single-family
851 residence an ADU. She described the property and the variance request.
852

853 The applicant reviewed the five points:
854

855 1) The variance will not be contrary to the public interest because the size of the
856 dwellings do not affect the character of the neighborhood and are in line with other
857 residences in the neighborhood.

858
859 2) The spirit of the ordinance would be observed because the addition of the ADU
860 will increase housing alternatives and will maintain the aesthetic appeal of the
861 neighborhood.

862
863 3) Granting the variance would do substantial justice because the loss to the
864 property owner is far outweighed by any gain to the public.

865
866 4) The values of the surrounding properties would not be diminished because the
867 property is over two acres. The structure will be aesthetically pleasing and
868 harmonious with the design of the existing home and neighborhood.

869
870 5) Owing to special conditions of the property that distinguish it from other
871 properties in the area, denial of the variance would result in unnecessary hardship
872 because (a) there is not a fair and substantial relationship between the general
873 public purpose of the ordinance provision and the specific application of the
874 provision to the property, as the ADU maintains the character of the neighborhood,
875 while observing the spirit of the ordinance. And (b) the proposed use is reasonable,
876 as having an ADU on a property is reasonable, due to the housing shortage.

877
878 C. Moore pointed out that if the lot was subdivided or the ADU not made the
879 primary residence, no variance would be needed. L. Gandia said the property is not
880 on municipal water and sewer, so wetlands would need to be removed from the
881 equation, so they would not meet the one-acre requirement to be subdivided. She
882 added the principal dwelling has to be bigger than the ADU.

883
884 Acting Chair Feig asked for public comment; there was none.

885
886 Acting Chair Feig asked what is unique about the property that requires placement
887 of the ADU in this location. L. Gandia described the topography of the property and
888 noted the wetlands will not be impacted.

889
890 L. Gandia read a letter into the record from an abutter in support of the variance
891 request. M. Malaguti said this will be marked as Exhibit A.

892
893 The Board closed public input and began deliberation.

894
895 1) Granting the variance would not be contrary to the public interest because it
896 would not alter the character of the neighborhood.

897
898 2) The spirit of the ordinance would be observed because it does not cause risk to
899 public health, safety, or welfare.

900
901 3) Granting the variance would do substantial justice because the loss to the
902 applicant would not be outweighed by the gain to the public.

903
904 4) The values of the surrounding properties would not be diminished because it is
905 another home constructed on a sufficient-sized property.

906
907 5) Owing to special conditions of the property that distinguish it from other
908 properties in the area, denial of the variance would result in an unnecessary
909 hardship because (a) there is not a fair and substantial relationship between the
910 general public purpose of the ordinance provision and the specific application of
911 that provision to the property because of the wetlands, the situation of the current
912 building, which limits the locations where the ADU could be placed. And (b) the
913 proposed use is a reasonable one because a house is reasonable.

914
915 **I. Macarelli made a motion in Case No. 03/20/2024-8, request for a**
916 **variance from LZO section 5.18.H.2 to allow an accessory dwelling unit to**
917 **be located in the front yard of the property whereas accessory dwelling**
918 **units are permitted in the side or rear yard, to grant the request, with**
919 **conditions as proposed. C. Moore seconded the motion. A vote was taken.**
920 **The motion was granted 3-0-0. The applicant's request for a variance was**
921 **GRANTED.**

922
923 **L. CASE NO. 03/20/2024-9 Request for a variance from LZO**
924 **section 5.18.F to allow an accessory dwelling unit to be greater**
925 **than forty percent of the living area of the principal dwelling.**
926 **The parcel is located at 5 Noyes Road in the Agricultural-**
927 **Residential (AR- 1) zoning district. Tax Map 12, Lot 92-2. Laura**
928 **and James Tebo (Owners) & Sebastian Rossino (Applicant).**

929
930 I. Macarelli read the case into the record.

931
932 Laura Gandia of Devine Millimet and Sebastian Rossino, son-in-law, appeared
933 before the Board. L. Gandia explained the daughter and son-in-law of Mr. and Mr.
934 Tebo wish to build a primary dwelling on the lot and make the existing single-family
935 residence an ADU. She noted the principal dwelling would be no smaller than 2,100
936 square feet.

937
938 The applicant reviewed the five points:

939
940 1) The variance will not be contrary to the public interest because the size of the
941 dwellings do not affect the character of the neighborhood and are in line with other
942 residences in the neighborhood.

943
944 2) The spirit of the ordinance would be observed because the addition of the ADU
945 will increase housing alternatives and will maintain the aesthetic appeal of the
946 neighborhood.

947
948 3) Granting the variance would do substantial justice because the loss to the
949 property owner is far outweighed by any gain to the public.

950

951 4) The values of the surrounding properties would not be diminished because the
952 property is over two acres. The structure will be aesthetically pleasing and
953 harmonious with the design of the existing home and neighborhood.

954
955 5) Owing to special conditions of the property that distinguish it from other
956 properties in the area, denial of the variance would result in unnecessary hardship
957 because (a) there is not a fair and substantial relationship between the general
958 public purpose of the ordinance provision and the specific application of the
959 provision to the property, as the ADU maintains the character of the neighborhood,
960 while observing the spirit of the ordinance. And (b) the proposed use is reasonable,
961 as having an ADU on a property is reasonable, due to the housing shortage.

962
963 M. Malaguti said Exhibit A of the prior case references this case as well and should
964 be made part of the record. He noted the application says no smaller than 2,000
965 square feet, while the renderings and presentation reference 2,100 square feet. L.
966 Gandia verified that 2,100 square feet is accurate.

967
968 Acting Chair Feig asked for public comment; there was none.

969
970 The Board closed public input and began deliberation.

971
972 1) Granting the variance would not be contrary to the public interest because it
973 does not alter the character of the neighborhood.

974
975 2) The spirit of the ordinance would be observed because it doesn't create any
976 public health, safety or public welfare issues.

977
978 3) Granting the variance would do substantial justice because the loss to the
979 applicant would be greater than the gain to the public.

980
981 4) The values of the surrounding properties would not be diminished because
982 another nice house on the property would not diminish the value.

983
984 5) Owing to special conditions of the property that distinguish it from other
985 properties in the area, denial of the variance would result in an unnecessary
986 hardship because (a) there is not a fair and substantial relationship between the
987 general public purpose of the ordinance provision and the specific application of
988 that provision to the property because this provision was created to limit the size of
989 an ADU, which is not the case here. And (b) the proposed use is a reasonable one
990 because houses are reasonable.

991
992 **I. Macarelli made a motion in Case No. 03/20/2024-9, request for a**
993 **variance from LZO section 5.18.F to allow an accessory dwelling unit to be**
994 **greater than forty percent of the living area of the principal dwelling, with**
995 **the condition that the principal dwelling not be smaller than 2,100 square**
996 **feet. C. Moore seconded the motion. A vote was taken. The motion was**
997 **granted 3-0-0. The applicant's request for a variance was GRANTED.**
998

999 Vice Chair Brunelle returned to the meeting.

1000

1001 **VII. COMMUNICATIONS AND MISCELLANEOUS**

1002

1003 M. Malaguti announced Shawn Faber is the new liaison from the Town Council to
1004 the ZBA.

1005

1006 **VIII. OTHER BUSINESS**

1007

1008 **IX. ADJOURN**

1009

1010 **C. Moore moved to adjourn. I. Macarelli seconded the motion. A vote was**
1011 **taken; all were in favor. The motion passed 4-0-0. The meeting was**
1012 **adjourned at 10:45 p.m.**

1013

1014 Respectfully submitted,

1015

1016 Beth Hanggeli

1017 Recording Secretary