



TOWN OF LONDONDERRY
ZONING BOARD OF ADJUSTMENT

268B Mammoth Road, Londonderry, New Hampshire 03053
Phone: 432-1100, ext.129 Fax: 432-1142

July 26, 2023

Following are the results of the Zoning Board of Adjustment hearing held Wednesday, July 19, 2023:

- Case No.:** 07/19/2023-1
- Applicant:** Holly Osborne
3 King Phillip Drive
Londonderry, NH 03053
- Location of Property:** 3 King Phillip Drive, Map 9, Lot 66-54, zoned AR-1
- Request:** Request for a special exception under LZO 5.12 to allow a home occupation, 3 King Phillip Drive, Map 9, Lot 66-54, zoned AR-1, Macallaster Stanford Wolfe, owner, Holly Osborne, applicant.
- Result:** B. O'Brien moved to grant the request for a special exception in CASE NO. 07/19/2023-1. M. Feig seconded the motion. A vote was taken; all were in favor. The motion passed 4-0-0. The request for a special exception was GRANTED for the following reasons:
- 1) The activities associated with home occupation shall not detract from the rural character of the residential neighborhood nor shall they create traffic, environmental, or aesthetic impacts substantially different than the impacts created by other permitted uses in the neighborhood.
 - 2) The home occupation shall be incidental and secondary to the use of the property as a residential dwelling.
 - 3) Home occupation shall be permitted only in single-family or two-family dwelling units and are not permitted in multi-family dwelling units.
 - 4) The home occupation shall occupy no more than 25 percent of the existing normal living area of the primary residence or if the home occupation is conducted in an accessory building, no more than 50 percent of the existing normal living area of the primary residence. Up to a maximum of 1,000 square feet may be dedicated to the home occupation.
 - 5) Only members of the occupant's immediate family residing on the property may be employed.
 - 6) No exterior renovations or construction shall be permitted as part of the home occupation.
 - 7) Exterior storage of any products, equipment, machinery, or materials associated with the home occupation is prohibited.
 - 8) Traffic generated by the home occupation shall not create safety hazards or be substantially greater in volume than would be normally expected in the neighborhood.



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- 9) The off-street parking shall be adequate for anticipated customers, although no parking areas in excess of those necessary for residential purposes will be allowed.
- 10) All home occupation shall be conducted in accordance with all Town regulations, state laws, and licensing requirements.
- 11) Please indicate whether a sign was requested and permitted, if it is a free-standing or wall sign.
- 12) Hours of operation are 10 a.m. to 6 p.m.

NOTE: Actions of the ZBA, granted or denied, are subject to the rights of any party to the proceedings or person directly affected thereby to request a rehearing within thirty calendar days following a hearing and to the Superior Court in accordance with RSA 677:1-14. Variance shall be valid if exercised within two years from the date of final approval. See RSA 674:33, I-a (a) for further explanation and conditions.



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Following are the results of the Zoning Board of Adjustment hearing held Wednesday, July 19, 2023:

- Case No.:** 07/19/2023-2
- Applicant:** 3 Rockingham Road Realty LLC
3 Rockingham Road
Londonderry, NH 03053
- Location of Property:** 3 Rockingham Road, Map 13, Lot 97-1, zoned C-II
- Request:** Request for a variance from LZO 7.5.C to allow a sign 13 ft. in height where 10 ft. is the maximum permitted, 3 Rockingham Road, Map 13, Lot 97-1, zoned C-II, 3 Rockingham Road Realty LLC, owner and applicant.
- Result:** B. O'Brien moved to grant the request for a variance in CASE NO. 07/19/2023-2, request for a variance from LZO 7.5.C to allow a sign 13 ft. in height where 10 ft. is the maximum permitted. M. Feig seconded the motion. A vote was taken; all were in favor. The motion passed 4-0-0. The request for a variance was GRANTED for the following reasons:
- 1) Granting the variance would not be contrary to the public interest. The variance will not alter the essential character of the neighborhood.
 - 2) The spirit of the ordinance would be observed because it enhances safety and promotes the general welfare.
 - 3) Granting the variance would do substantial justice because there is no loss to the public by granting the variance.
 - 4) For the following reasons the values of the surrounding properties would not be diminished. The area is commercial and the new sign would look better.
 - 5) A.1 there is not a fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property because the property is in a commercial high traffic area where visibility is important.
A.2 the proposed use is a reasonable one because signs are reasonable.

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Following are the results of the Zoning Board of Adjustment hearing held Wednesday, July 19, 2023, 2023:

- Case No.:** 07/19/2023-3
- Applicant:** Liberty Utilities, John P. Tirrell, Representative
430 West Road, Portsmouth, NH
- Location of Property:** 104 Harvey Road, Map 14, Lot 12, zoned Ind-II.
- Request:** Request for a special exception under LZO 4.1.2 (Table of Uses), as set forth in LZO 8.1.5.1 and -2, to allow a natural gas meter station in the Industrial II zoning district, 104 Harvey Road, Map 14, Lot 12, zoned Ind-II, Liberty Utilities, owner and applicant.
- Result:** M. Feig made a motion to approve the special exception in CASE NO. 07/19/2023-3, a request for a special exception under LZO 4.1.2 (Table of Uses), as set forth in LZO 8.1.5.1 and -2, to allow a natural gas meter station in the Industrial II zoning district, 104 Harvey Road, Map 14, Lot 12, zoned Ind-II, Liberty Utilities, owner and applicant. C. Moore seconded the motion. A vote was taken; all were in favor. The motion passed 4-0-0. The request for a special exception was GRANTED for the following reasons:
- 1) Such use will not be detrimental to the health and safety of the residents.
 - 2) Such use will not create undue traffic congestion or a traffic safety hazard in the vicinity of the proposed development.
 - 3) Such use will not be incompatible with the surrounding neighborhood.
 - 4) Such use will not be a detriment to property values in the vicinity of the proposed development, with consideration given to the location or scale of buildings, structures, parking areas, or other access ways.
 - 5) No nuisance will be created by such use by way of emissions of odor, smoke, gas, dust, noise, glare, heat, vibration, or other pollutants or the unsightly over-storage of equipment, vehicles, or other materials.
 - 6) Such use will not create a hazard to the public or adjacent property on account of potential fire, explosion, or release of toxic materials.
 - 7) Such use will not result in a degradation of existing surface and groundwater quality standards nor will have an adverse effect on the natural functions of wetlands on the site, which would result in the loss of significant habitat or flood control protection.
 - 8) Adequate and appropriate facilities will be provided for the intended use.
 - 9) All necessary state and federal permits will be obtained.



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Following are the results of the Zoning Board of Adjustment hearing held Wednesday, July 19, 2023:

- Case No.:** 07/19/2023-4
- Applicant:** Brilor Corporation
25 Orchard View Drive
Londonderry, NH 03053
- Location of Property:** 25 Orchard View Drive, Map 7, Lot 38-1, zoned C-I
- Request:** Request for a variance from 4.1.2 (Table of Uses) to allow a child care facility in the Commercial I zoning district, 25 Orchard View Drive, Map 7, Lot 38-1, Brilor Corporation, owner and applicant.
- Result:** B. O'Brien moved in CASE NO. 07/19/2023-4 to deny the request for a variance from 4.1.2 (Table of Uses) to allow a child care facility in the Commercial I zoning district, 25 Orchard View Drive, Map 7, Lot 38-1, Brilor Corporation, owner and applicant. M. Feig seconded the motion. A vote was taken; all were in favor. The request for a variance was DENIED for the following reasons:
- 1) Granting the variance would be contrary to the public interest due to safety concerns, the use of alcohol at Super Wok, and potential tenants. The character of the neighborhood is retail.
 - 2) The spirit of the ordinance would not be observed due to health, safety, and welfare concerns of the busy retail environment and the presence of children.
 - 3) Granting the variance would not do substantial justice because the loss to the public would be greater than the loss to the applicant due to the potential safety issues. Also considering the impact to the retail businesses that may result from children being in the area.
 - 4) The values of surrounding properties would not be diminished.
 - 5) a. 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 there is a fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property, given the concerns that have been raised. b. The proposed use is not a reasonable one because a childcare facility is not allowed in a C-I zone.

NOTE: Actions of the ZBA, granted or denied, are subject to the rights of any party to the proceedings or person directly affected thereby to request a rehearing within thirty calendar days following a hearing and to the Superior Court in accordance with RSA 677:1-14. Variance shall be valid if exercised within two years from the date of final approval. See RSA 674:33, I-a (a) for further explanation and conditions.



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Following are the results of the Zoning Board of Adjustment hearing held Wednesday, July 19, 2023:

Case No.: 07/19/2023-5

Applicant: 3 Rockingham Road Realty LLC
3 Rockingham Road
Londonderry, NH 03053

Location of Property: 3 Rockingham Road, Map 13, Lot 97-1, zoned C-II

Request: Request for a variance from LZO 7.7.E.3 to allow an electronic changeable messaging sign, 3 Rockingham Road, Map 13, Lot 97-1, zoned C-II, 3 Rockingham Road Realty LLC, owner and applicant.

Result: B. O'Brien moved to deny the request for a variance with respect to the message board from LZO 7.7.E.3 to allow an electronic changeable messaging sign, 3 Rockingham Road, Map 13, Lot 97-1, zoned C-II, 3 Rockingham Road Realty LLC, owner and applicant. C. Moore seconded the motion. A vote was taken; all were in favor. The motion passed 4-0-0. The request for a variance was DENIED,

B. O'Brien moved to deny the request for a variance with respect to the clock from LZO 7.7.E.3 to allow an electronic changeable messaging sign, 3 Rockingham Road, Map 13, Lot 97-1, zoned C-II, 3 Rockingham Road Realty LLC, owner and applicant. C. Moore seconded the motion. A vote was taken; all were in favor. The motion passed 4-0-0. The request for a variance was DENIED,

for the following reasons:

- 1) Granting the variance for the message board would be contrary to the public interest, as it will change the character of the neighborhood. Granting the variance for the clock would not be contrary to the public interest, as it would not alter the character of the neighborhood.
- 2) The spirit of the ordinance for the message board would not be observed because it is a heavily traveled road and it is directly contrary to what the ordinance is written for. The spirit of the ordinance for the clock would be observed as it doesn't create any health, safety, or public welfare issues.
- 3) Granting the variance for the message board would not do substantial justice, as it is a safety issue for the public versus potential loss to the applicant. Granting the variance for the clock would do substantial justice, as it is no threat to the public.
- 4) The values of the surrounding properties would not be diminished with respect



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to the message board, as it is a commercial area. The values of the surrounding properties would not be diminished with respect to the clock.

5) a. 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 there is a fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property with respect to the message board due to the safety concerns. A scrolling message board is not necessary as this property is not different than other properties in Town that the ordinance applies to. b. The proposed use is not a reasonable one with respect to the message board because the manual marquee is sufficient and it goes against the Town ordinance.

5 cont.) a. 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 there is a fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property with respect to the clock. b. The proposed use is a reasonable one with respect to the clock.

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