

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

DATE: AUGUST 17, 2011

CASE NO.: 8/17/2011-1

APPLICANT: BENJAMIN C. JR. AND MANDY LEVISON
3 WATERCREST DRIVE
LONDONDERRY, NH 03053

LOCATION: 3 WATERCREST DRIVE, 5-15-7, AR-I

BOARD MEMBERS PRESENT: MATT NEUMAN, CHAIR
LARRY O'SULLIVAN, VOTING MEMBER
MICHAEL GALLAGHER, VOTING ALTERNATE
JAY HOOLEY, VOTING ALTERNATE
NEIL DUNN, CLERK

ALSO PRESENT: RICHARD CANUEL, SENIOR BUILDING INSPECTOR/ZONING OFFICER

REQUEST: SPECIAL EXCEPTION TO ALLOW AN ADULT DAY CARE BUSINESS OFFICE AS
A HOME OCCUPATION IN ACCORDANCE WITH THE PROVISIONS OF
SECTION 3.12

PRESENTATION: Case No. 8/17/2011-1 was read into the record with no previous cases listed.

MATT NEUMAN: And if you could state your name and address?

BEN LEVISON: Yes, my name is Ben Levison, 3 Watercrest Drive, Londonderry, NH.

MATT NEUMAN: Great. And if you wanna just walk through your application.

BEN LEVISON: Sure. The State of New Hampshire, the Department of Health and Human Services require the business that my wife and I want to establish to meet the requirements of the Town's health, building, zone and fire regulations. The nature of the business will be a in-client home, non-medical personal care, and homemaker services business. The home office itself will not see any patients on site. The home office will just be purely for business administrative needs and taking calls from clients. In accordance with the special acceptance, the days of operation will be seven (7) days a week, typically during the waking hours. We will not request a sign. The total percentage of office space calculates at about five point five (5.5) percent of our approximately thirty five hundred (3,500) square feet of living space at this particular time. We will not require any parking for customers or employees. This business will be run by my wife who is an LNA. The

45 home occupation will be carried on only by the occupant within the dwelling within one (1) room that is
46 currently not being used in the house. It's a rather large house and so we have a number of empty rooms.
47 The occupation will be incidental and secondary to the use of the property as a dwelling and we have no
48 intention of changing the characteristics of the house by making any modifications interior or exterior. And
49 only the members of the occupant's immediate family residing on the property will be employed. And
50 currently there's three (3) residents living in the house. I've included a floor plan of the house and on the
51 second floor bedroom, number two (2), which is approximately one hundred and ninety eight (198) square
52 feet will be used as the home office. And that concludes my request.

53
54 MATT NEUMAN: Alright, any questions from the Board?

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56 LARRY O'SULLIVAN: Yeah. Mr. Levison, you mentioned that only residents or current residents will be
57 employed in the business. May I ask if those are relatives?

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59 BEN LEVISON: Yes, they are.

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61 LARRY O'SULLIVAN: Okay.

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63 BEN LEVISON: That is my wife and she plans to operate solo at this particular time. We do have two (2) other
64 family members, both of our daughters who are medical professionals.

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66 LARRY O'SULLIVAN: Okay, thank you for the clarification. They are currently residents of the house?

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68 BEN LEVISON: One daughter, my wife, and myself only at this time.

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70 LARRY O'SULLIVAN: Okay, and so the three (3) of you would be employed in the business?

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72 BEN LEVISON: My wife initially. I'll be doing the record keeping and the business management for her.

73
74 LARRY O'SULLIVAN: Understood. So you're willing to limit the size of the company? Obviously, you'll have
75 business meetings all the time at home but there will be no outside employees?

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77 BEN LEVISON: That is correct, sir.

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79 LARRY O'SULLIVAN: Right. Thank you.

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81 NEIL DUNN: If I may, Mr. Chairman?

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83 MATT NEUMAN: Neil, go ahead.

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85 NEIL DUNN: Richard, I guess the terminology where the "special exception to allow an adult day care" and
86 then it says "business offices, administrative," are we allowing an adult day care is my concern?

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88 RICHARD CANUEL: No, you're allowing an adult day care business office.
89

90 NEIL DUNN: Okay, well, 'cause I know we do have an adult...
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92 RICHARD CANUEL: That's why I was pretty clear on that.
93
94 NEIL DUNN: Well, I wanted to make sure because I didn't understand why it wouldn't have come in as just a
95 home occupation, a business office for, and not drag the adult day care into the exception so that it could be
96 misconstrued as an adult day care.
97
98 RICHARD CANUEL: Well, what this does is pretty much clarifies for the State's licensing purposes is that this
99 particular use is allowed as a home occupation.
100
101 NEIL DUNN: So you have no concerns that it would ever be misconstrued years from now when somebody
102 would say, well you gave us a special exception for an adult day care.
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104 RICHARD CANUEL: Well, you know, the Board can make that clear in one of their conditions, if you so choose.
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106 NEIL DUNN: Okay, I just...
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108 RICHARD CANUEL: To just clarify that, that it would be for a business office only.
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110 NEIL DUNN: Okay. Thank you.
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112 MATT NEUMAN: So essentially, I mean, this is gonna be an office. You don't have any potential for any
113 patients, clients, whoever, to be coming to the property?
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115 BEN LEVISON: Not at all. Similar to if somebody was an engineer at a high tech company, came home to write
116 script or code on his or her laptop. That's basically the extent of the operation other than my wife will be
117 returning calls to customers.
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119 MATT NEUMAN: Right. There's no major deliveries of large objects or...
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121 BEN LEVISON: Nothing at all.
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123 MATT NEUMAN: ...anything to the house?
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125 BEN LEVISON: No.
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127 MATT NEUMAN: Okay. Any other questions?
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129 LARRY O'SULLIVAN: And this is all subject to licensing by the State anyway?
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131 BEN LEVISON: That is correct, sir. The initial application through the State has been approved. We are just
132 waiting for approval from the Town to complete the third phase.
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134 LARRY O'SULLIVAN: No other questions from me.

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MATT NEUMAN: Anyone in the audience have any questions? Concerns? Seeing none, is there anything else you'd like to add to...?

BEN LEVISON: No, sir. It's pretty straightforward.

MATT NEUMAN: Yeah, I think so, too. Again, anything from the Board? I guess we can probably pull back into deliberation then.

LARRY O'SULLIVAN: Good idea.

MATT NEUMAN: Thank you.

BEN LEVISON: Thank you.

DELIBERATIONS:

MATT NEUMAN: Alright, well what does everybody think here?

LARRY O'SULLIVAN: If it's a home occupation, that's exactly what it is, whether it's administrative...

NEIL DUNN: It seems to fit the classification we came up with a home office or a home occupation.

MATT NEUMAN: Mm-hmm.

NEIL DUNN: The terminology was the only thing that had me wondering a little bit there, but...

LARRY O'SULLIVAN: The title.

NEIL DUNN: The title, yeah.

MATT NEUMAN: Yeah, no, absolutely. When you're seeing an "adult day care."

NEIL DUNN: So as long as...I think we can put that in there as a stipulation that it is indeed only a business office only for the adult day care service that...

LARRY O'SULLIVAN: Administration.

NEIL DUNN: Administration.

LARRY O'SULLIVAN: With no client visits allowed.

MATT NEUMAN: And I know you mentioned it, Larry, did you wanna put something in there regarding the number of employees, or...?

180 LARRY O'SULLIVAN: Yup. That only residents are employed in the business.
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182 MATT NEUMAN: You want to limit them to only residents when they...?
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184 LARRY O'SULLIVAN: That's what the request was. Actually, one of the things about any home occupation is
185 that there's no outside employees unless they request it. But there are no outside employees requested, so...
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187 MATT NEUMAN: Yup.
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189 LARRY O'SULLIVAN: I would ask Richard to see if that's just redundant by saying that now.
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191 RICHARD CANUEL: Well, now, the ordinance does say the business shall be the owner or other family
192 members residing in the home.
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194 LARRY O'SULLIVAN: That's why I asked if it would be redundant if we said, "only open to residents in the
195 home."
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197 RICHARD CANUEL: Right. I think it's pretty clear in the ordinance already.
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199 MATT NEUMAN: So there's really...I mean, there's no need to...
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201 LARRY O'SULLIVAN: Done. So anybody have any objection to me making a motion?
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203 MATT NEUMAN: Nope, go right ahead.
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205 LARRY O'SULLIVAN: I'd like to make a motion to approve case 8/17/2011-1, special exception, with the
206 proviso that there will be no client visits allowed, that there will be no signage and I guess that ought to do it.
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208 MATT NEUMAN: Alright, we have a motion. Any second?
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210 MICHAEL GALLAGHER: I'll second.
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212 MATT NEUMAN: I have a second. All those in favor of the motion?
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214 LARRY O'SULLIVAN: Aye.
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216 MICHAEL GALLAGHER: Aye.
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218 JAY HOOLEY: Aye.
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220 NEIL DUNN: Aye.
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222 MATT NEUMAN: Aye. Opposed?
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224 [no response in opposition]

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226 RESULT: THE MOTION TO GRANT CASE NO. 8/17/2011-1 WITH RESTRICTIONS WAS APPROVED, 5-0-0
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228 RESPECTFULLY SUBMITTED,
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233 NEIL DUNN, CLERK

234 TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY
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236 **APPROVED SEPTEMBER 21, 2011** WITH A MOTION MADE BY JAY HOOLEY, SECONDED BY MICHAEL
237 GALLAGHER AND APPROVED 4-0-0.
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