

LONDONDERRY, NH PLANNING BOARD MINUTES OF THE MEETING OF February 10, 2021, Via a Zoom remote meeting

I. CALL TO ORDER

Members Present via a ZOOM remote meeting: Art Rugg, Chair; Chris Davies, Vice Chair; Jake Butler, member; Ann Chiampa, member; Giovanni Verani, Ex-Officio – Town Manager; Jeff Penta, member; Bruce Hallowell, Administrative Official Ex-officio, Deb Paul, Town Council Ex-officio; Roger Fillio; alternate member; Lynn Wiles, alternate member; and Jason Knights, alternate member

Also Present: Town Planner Colleen Mailloux, John Trottier, P.E., Assistant Director of Public Works & Engineering; Associate Planner Laura Gandia; and Beth Morrison, Recording Secretary

Chairman Rugg called the meeting to order at 7:00, and noted as Chair of the Londonderry Planning Board, due to the COVID-19/Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, this Board is authorized to meet electronically. He started the meeting by taking roll call attendance. He said that when a member states their presence, please also state whether there is anyone in the room with you during this meeting, which is required under Right to Know Law. He appointed L. Wiles to vote for A. Sypek.

II. ADMINISTRATIVE BOARD WORK

A. APPROVAL OF MINUTES: N/A

B. REGIONAL IMPACT DETERMINATIONS: Town Planner Mailloux informed the Board that she had no projects of regional impact for the Board this evening.

C. Discussion with Town Staff: Chairman Rugg informed the Board that they will have the election of officers at their next meeting and both A. Chiampa and J. Butler have expressed an interest in the vacant Assistant Secretary position. He added that there is going to be a Zoom seminar on excavation from the Office of Strategic Initiatives (OSI) noting he sent an email about this.

III. Old Business – N/A

IV. New Plans/Public Hearings/Conceptual Discussions

A. Review and non-binding discussion of a conceptual site plan for Six Dickey Street, Map 10 Lot 109, Zoned C-II, Leon & Tamara Lampes (Owners)

Town Planner Mailloux informed the Board that this property at Six Dickey Street is

in the C-II zoning district, but has never had an approval from the town for a commercial use. She noted that the property owners are looking for input from the Board on allowing a commercial use on the site as well as guidance on the number of waivers they would be requesting from the site plan regulations. She explained that staff has met with the property owners several times over the last few years to inform them on the process stating that staff's guidance is that an application should meet the guidelines. She pointed out that the property owners are specifically looking for some input from the Board on the Boards' willingness to consider grant waivers. Tammie Lampes, owner of Six Dickey Street, Londonderry, NH, addressed the Board. T. Lampes told the Board that she sent an email to all of them, but did not know if anyone received it, noting she wanted them to come out and see the site. She started by giving the Board some background stating that they conducted a site plan review a few years back with engineering and survey work. She said at that time, the engineer told them some of the items the town would require, would be almost impossible as the lot is undersized. She noted that the town has allowed them to operate with a wholesale license, but they originally purchased the property because they wanted to do retail sales. She gave an overview of the site, noting that most everyone around them is residential, pointing out that they have a great relationship with all of their neighbors. She said that they are looking for some sort of reconsideration on the waivers that are required for a retail license here. She added that the engineer told them that they would not have a lot of space to work with on the lot after meeting all the requirements for green space, parking and setbacks. She commented that they are trying to work with the town and asked if they could meet halfway on the waivers. Chairman Rugg asked if they want to expand the business. T. Lampes replied that was not correct, stating they are a small family business by appointment only and are very limited without having the retail license. Chairman Rugg asked if they want to leave the property the way it is and change it to retail. T. Lampes responded that is correct.

Chairman Rugg asked for staff input. He asked if this was an existing, non-conforming lot. Town Planner Mailloux replied that was correct. She mentioned that this property is in the C-II zone, where automotive sales are a permitted use, but there has never been any site plan approval for a commercial use of this property. She stated that under the current regulations, the approval for anything out there is a single family residential property, but noted the dimensional criteria of the lot itself is an existing non-conforming lot, as it does not meet the current requirement. She added that it is grandfathered in the current configuration as a residential use, but once the use is changed to retail automotive sales, they have to comply with the current regulations. She pointed out that in addition to waivers they will need variances from the Zoning Board of Adjustment (ZBA) for building setbacks and residential buffer items. She mentioned that staff's concern is that the intent of the site plan regulations is to make sure that there is safe driveway access to a site, outdoor storage is clearly identified, and safe parking for customers are identified and labeled on the site. She said that she understands the challenge as it is a very small lot, but they have been discussing this with the property owners for many years about this. She commented that she does not want to set a precedent for approving a blanket waiver of the regulations and allowing uses to move forward without site plan review and compliance. She reviewed the waivers in detail

with the Board that the owner would be asking for. She pointed out that on the existing condition plan, it appears as if the driveway actually goes onto the abutting property, which is a concern. She said that there may be additional waivers if they move forward, but these are the waivers that T. Lampes specifically wanted addressed. J. Trottier agreed with Town Planner Mailloux on not setting a precedent with a just a blanket waiver to the site plan regulations. C. Davies commented that he would not be comfortable with the Board potentially setting precedents with the parking, driveway access and landscaping. He added that a traffic study should be performed, as it is a change in the nature of the business and this might be problematic for the road if it is used as a cut-through. T. Lampes stated that it is a cut-through road, as they run parallel to Londonderry Road and it is busy. Chairman Rugg said that about 10 years ago, an applicant wanted to put in a multi-family project here and it raised a big concern with the neighborhood regarding the impact on traffic. C. Davies asked about the driveway encroachment. Town Planner Mailloux replied that based on a plan that was submitted, the existing gravel driveway encroaches onto the abutting property and would need to be addressed. J. Butler asked the difference between a wholesale and retail dealership. Town Planner Mailloux answered that it is a different licensing by the state, noting a wholesale license allows no vehicles on site and under the town's regulations they are treated more as an office or home occupation, as there is no vehicle display or storage. She went on to note that with a retail license there is a requirement that vehicles be displayed on the site, which triggers the need for a site plan with a designated vehicle storage area and customer parking. J. Butler asked what was the site was used for before the current owner. Town Planner Mailloux replied that there was never commercial approval, but at some point, historically there may have been something done in the garage. She commented that back in 2001, a previous property owner, had been doing retail automotive sales at this location and received a zoning enforcement letter where they were told to cease and desist as this required site plan approval. She said that this was resolved by the property owner stopping vehicle sales, but other than that, there has been no approval at this site for commercial use. J. Butler asked if there are cars on the lot now. T. Lampes replied that there are cars on the lot now, noting they were never told they could not have cars on the lot. J. Butler asked how many cars are usually on the lot. T. Lampes responded that they usually have 10 to 12 cars on the lot. J. Butler asked about the driveway encroachment. Town Planner Mailloux reiterated that based on what their surveyor submitted, it appears as though a portion of the gravel driveway is encroaching onto the abutting property. She stated that as far as the vehicle display, this would be an enforcement issue and she would have to check in with Code Enforcement on this. J. Butler commented that it appears as though they cannot meet the town standards due to the small size of the lot and asked what they could do to upgrade the lot and make this work. T. Lampes remarked that is what they are asking the Board for this evening, noting they are not asking for a blanket approval to do whatever they want. J. Butler expressed his opinion that he would like a traffic study performed, for the applicant to fix the driveway problem, get more adequate lighting and add a little landscaping rather than just saying no to the applicant. J. Trottier added that the applicant would need variances from setbacks and green space from the ZBA, noting the Board cannot give them approval for everything. J. Butler replied that he understood. A. Chiampa

informed the Board that the entire block was rezoned commercial in 1974, but the other side of the street is zoned AR-1 and some properties are in Derry. She said that the road splits the zone, with commercial on the west side and residential on the east side. She commented that there would be many hurdles for the applicant to get through and she is not sure that they can get through them. She noted that she agrees with staff's recommendations. J. Penta mentioned that there are many requests for waivers and he is not sure what the applicant's response is, such as if they are willing to meet the town halfway on the waiver requests. T. Lampes answered that they have spent thousands of dollars in engineering and have been working with the town for years. She noted that when they bought the property the fence was already there and the driveway was already in existence. She said that they are not looking to become a Londonderry Ford, but rather a small internet business with one customer at a time. She said that they do not have room for adding more green space and noted they have cleaned up the property since they bought it. J. Penta voiced his opinion, that he would like to support small business as much as he can, but he is struggling as there are regulations and ordinances for a reason and he would want the Board to keep within the rules here. B. Hollowell asked if developer would be allowed to build a residential single family on the lot today. Town Planner Mailloux replied that the status of this lot is an existing non-conforming residential use, noting that if the structure was knocked down, a new residential use would not be permitted. She added that in general on a C-II lot, they would need a variance to allow a residential use. B. Hollowell asked if the lot was on septic. Town Planner Mailloux replied that was correct. B. Hollowell asked if there was public sewer on this road. Trottier responded there is not. B. Hollowell asked if the applicant wants to continue to operate on a retail level with vehicles on the lot available in more of a staging area while the ownership of the vehicles is changed. T. Lampes replied that was correct. B. Hollowell commented that they are not necessarily looking for this to be a car lot to sell cars, but more of a storage area. T. Lampes stated that they would like to be able to sell the vehicles on the lot and have been operating as a wholesale internet business, but this is holding them back financially as this is not the real reason they purchased the property. She added that if they Board does not want them to wash cars on site, they would go down to the car wash to do this. B. Hollowell asked if the business plan would be to operate as a small dealership. T. Lampes replied that was correct by appointment only. B. Hollowell expressed his opinion, that if the applicant was to go from a wholesale model, operating business to business, to a retail business with public coming in and out, they would have to comply with the regulations. He asked if they considered instead of having it be a car lot, and raising all the structures there now, and build a larger garage to store the vehicles in and show by appointment only. T. Lampes replied that they felt they would be opening another can of worms as Town Planner Mailloux said they cannot rebuild there. She stated that the area in general is growing and they are being held back financially by not being able to use the lot for retail sales, which is why they bought the property in the first place. Town Planner Mailloux reviewed the existing condition plan showing where they would need a variance for the green space buffer and setbacks from the ZBA. She remarked that the interpretation from the Zoning Administrator has been that a change of use of an existing, non-conforming use, loses their existing, non-conforming status. J. Trottier added that the hardship is the configuration of the lot.

B. Hallowell commented that he was thinking of building a multi-bay garage, the applicant could store a number of cars, and they would not be subject to the parking and requirements outside of the building. T. Lampes stated that she feels as if the town is asking them to do the impossible by conforming to the regulations. B. Hallowell commented that he understands and sympathizes with her position, but is looking at it from a standpoint of conducting a business that is in line with what the town requires for a commercial business. He went on to note that from a legal standpoint, he has to look at not setting a precedent for other property owners to come in and do the same. He added that he is not a hard no to the applicant, but rather willing to try and come up with a compromise between the town and the applicant's interests. G. Verani said that his heart is with small businesses and they are not working on the same economics as the big dealerships. He noted that because they are in a commercial zone, they might be able to qualify for a loan. He asked T. Lampes if they are able to work within the boundary shown on the screen. Town Planner Mailloux remarked that the GIS is not completely accurate and cannot be used for legal purposes, but it does give an idea. G. Verani asked if they would be willing to financially comply within their lot. T. Lampes replied that was correct. G. Verani expressed his opinion, that he believes this is an issue town-wide with smaller lots and maybe the zoning is not correct. He said that if they can clean up the lot and comply, then he feels like the Board should try and help them out. D. Paul asked how long they have owned the property. T. Lampes replied that they bought the property in 2014. D. Paul asked when they started talking to the town about expanding their business. T. Lampes answered that they started talking to the town in 2015, as the state approved them for retail, but the town had not. D. Paul asked how many more cars they would add to the site if they keep 10 to 12 cars there now. T. Lampes replied they would not put anymore cars on the site, as this is strictly about licensing. D. Paul commented that they are on town water, and the ground is gravel and the cars could be leaking into the ground. She pointed out that right now Londonderry is dealing with a lot of issues with contaminated water. She said that she is for non-pervious surfaces, but when it comes to cars, especially older cars, potentially leaking into the groundwater, she would want pavement. T. Lampes remarked that if the town or Board asked them to pave the site, it would be paved. D. Paul asked where the water goes when they wash cars on site. T. Lampes replied that they do not wash a lot of cars on site and are very respectful to their neighbors. She said that they would be willing to bring the cars down the street to the car wash and come back to wax it. D. Paul asked how many waivers are they requesting and if they could be grouped into minor versus major waivers. Town Planner Mailloux replied that there are eight waivers from the site plan regulations, such as stormwater management, streets and driveways, vehicle circulation and parking, landscape design and soils and wetlands. D. Paul mentioned that as far as landscaping, she is okay with how it is now, as it has been that way for many years. Town Planner Mailloux explained that if there is not going to be any exterior lighting on the new plan, that would be something that the Board has waived before. She suggested the landscape design would need to be addressed, in her opinion, as there has been no approval for vehicles being stored out there at the site. She stated that if a precedent was set for outdoor storage that does not have some sort of screening, it would be a concern of hers. She noted that her biggest items of concern would be the

stormwater drain system, as the town has federal requirements they need to maintain, so it cannot be waived. She added that she believes the driveways need to have safe sight distance and this is a safety issue. She went on to note that vehicle circulation and parking need to be addressed, such as a paved parking area to store the vehicles with parking spaces identified for customers. She commented that the discussion this evening is not to iron out what waivers the Board would approve or not approve, but rather a consensus on if the Board would work with the applicant. J. Trottier commented that staff hold's applicants to the regulations and the applicant needs to come up with a plan showing staff what they ultimately want to accomplish. J. Butler asked if the applicant submitted their best case scenario, knowing they cannot meet all the requirements, then the Board would discuss the granting of the waivers. J. Trottier replied that was correct. J. Butler stated that if the Board needs to be aware they might disagree with town staff if they wanted to approve the plan. Town Planner Mailloux interjected that it is not necessarily that town staff is not going to recommend waivers, as they have in the past on items that where there are reasonable justifications for not complying with town standards. She said that she does not want it to sound as if staff never supports granting waivers. J. Butler said that he agreed with her, but noted that there are going to be waiver request on this specific application that town staff would not recommend. J. Trottier commented that he would advise not to go against the drainage regulation in his opinion. He added that with other plans, staff has knowledge about what waivers the applicant would be requesting, and this is more of a cart blanche waiver request. Chairman Rugg pointed out that the Board has not always agreed with staff and has granted waivers in the past with good reason being careful not to set a precedent. G. Verani asked if staff could give the applicant some indication of the level of engineering she might need to come back to the Board, such as a boundary survey or topographic. J. Trottier replied that the applicant has this already, but it appears as if the applicant does not want to do anything. T. Lampes commented that they have spent money on engineering and surveying, coming close to \$20,000 already. She said that when town staff shot them down their engineer suggested they might want to obtain legal counsel, but they are not that kind of people. R. Fillio asked how many vehicles they would have for sale at one time. T. Lampes replied 10 to 15 vehicles at most. R. Fillio said that even though it is appointment only, they will need a certain number of spaces for customers coming in for those appointments, and the plan does not show where the pavement will be, where the drainage will go, etc. He mentioned that usually, the Board is given a conceptual plan showing what the applicant is willing to do, which the Board does not have this time. Town Planner Mailloux told the Board that they in 2017, there was a design review plan that was submitted, and that is where it became clear that they would need multiple waivers and variances. She pointed out that this plan went inactive after a while due to the applicant's concerns over what needs to be done. She said that they have reached out to her over the past two years noting that the next step would be a conceptual discussion with the Board. She noted that they did update their existing conditions plan for the purposes of the conceptual discussion. C. Davies echoed what R. Fillio said as the Board does not know what it being proposed and thought this was what the Board should recommend to the applicant. R. Fillio stated that he would never give a blanket waiver request, but more specific generalities. L. Wiles said that he drove past the

property noting it is unique. He asked why they are asking for a storm drain waiver. T. Lampes replied that they are not refusing to do this, but they have a list of criteria that they have to meet and want to know what waivers the Board would work with her on. She added that they are willing to work with the town, but is not sure what to present as they do not want to change anything. L. Wiles asked what the proposed business hours would be and what they would propose for a lighting plan, as they abut residential. T. Lampes replied that the hours are currently 9 a.m. to 5 p.m. Monday through Friday with a half day on Saturday and no Sunday hours. She noted that they are not there are night, noting that they have solar lighting to try and be a good neighbor to the residential homes. L. Wiles commented that in his opinion, a retail ownership would create a different feel than the wholesale license. T. Lampes said that they are an internet business by appointment only and they do not want to change this. L. Wiles asked if they would be willing to have any restrictions on business hours or cars. T. Lampes replied that they would. L. Wiles stated that he would be willing to work with the applicant on some items. J. Knights commented that the plan is for an internet only retail business, but what if the business becomes more popular and there are no spaces for the customers, which is a concern of his. T. Lampes said that they will always be an internet business by appointment only, no matter how busy they are. She added if it got to the point where people were just driving up without an appointment to look at the vehicles, they would put up a gate. Town Planner Mailloux commented that J. Knights insights hit the nail on the head and if the business is sold in the future, there need to be restrictions on the conditions of approval. J. Knights said that his concern is that it appears that there are so many waivers and the next time another situation arises where there might be a less desirable lot, what would the Board do. D. Paul asked if the old plan could be viewed in the Planning Department. Town Planner Mailloux said that the paper copy is in the office and can be viewed. D. Paul commented that as a small business owner and going through the process herself, she can sympathize, but the Board has to look at the future. She said that in her opinion, the plan would be very restricted and when they sold the property, these restrictions would carry forward. Chairman Rugg asked if the 2017 plan could be scanned and sent to the Board electronically. Town Planner Mailloux replied that she can do this. J. Trottier mentioned that it might be helpful for the Board to see the comments from staff on this, to compare what is proposed to the requirements. B. Hallowell mentioned that it does not sound like the applicant wants to operate a car dealership, but an auto boutique of sorts. He asked if there was another business premise that can be found for them to operate. Town Planner Mailloux replied that the change of use, triggers a site plan review, noting that if someone else wanted to put an office here, it would be the same. T. Lampes asked if they would fall into retail sales up to 7,500 SF type criteria. Town Planner Mailloux reiterated that it is not the use that is the issue, but the fact that it is not residential and they have to meet the regulations. B. Hallowell said that he might allow some waivers, but would definitely not budge on stormwater run-off. C. Davies asked if the applicant would go the ZBA to ask for the change of use. Town Planner Mailloux replied that the applicant has to go before the ZBA based on what variances they will need, but the non-conforming status is lost once there is a change of use adding that the ZBA cannot grant them relief from the site plan regulations. J. Butler commented that he believes the Board is willing to work with

the applicant and suggested the applicant go back to their engineer and show the Board a conceptual plan. Chairman Rugg said that he believes there will be another conceptual discussion. G. Verani asked if the Board did work with the applicant, would they lose their ability to fall back to their grandfathered status, if they were not granted the variances by the ZBA. Town Planner Mailloux replied that she would have to ask Nick Codner, Chief Building Inspector and get back to the Board. G. Verani suggested the applicant get legal counsel on this and put all the restrictions on the plan proactively. T. Lampes thanked the Board for listening.

V. Other

A. Water resource update

Town Planner Mailloux told the Board that this was started because Mike Speltz, alternate member of the Conservation Commission, recognized the fact that the town has done a number of studies related to water resources but they were not all in together in one table to help identify the tasks. She noted that the Water Resource Management Plan was a largely a product of the Conservation Commission and the Water Quality Update was spearheaded by Steve Cotton, Administrative Support Coordinator. She explained the table, which is attached hereto, identifies the time line, cost, urgency, and assigning a responsible department or Board responsible for the tasks. She said that she has asked each department or Board to get back to her with what it would to accomplish the task they have been assigned. She noted that there are 15 action items. She mentioned that they want to present this next spring to the Town Council, Planning Board and Conservation Commission outlining how the task can be done, the cost and the timeframe. She commented that everything cannot be accomplished at once, but this will help identify what should be addressed first. Chairman Rugg asked if the departments or Boards that are listed on the table are responsible for that task. Town Planner Mailloux replied that was correct. C. Davies asked who the oversight Board would be on this. Town Planner Mailloux replied that the Planning Board and Conservation Commission will be advisory and the Town Council will be the ultimate decision maker as they control the spending. She said that this will be an annual update to the Town Council and possibly quarterly updates with this Board and the Conservation Commission. D. Paul mentioned that there is a lot of money and resources out there and would like to know who would be scanning for these. She said that a lot of this information has already been done. Town Planner Mailloux commented that if they are looking for infrastructure, the Department of Public Works and Engineering (DPW), would be savvier at finding money out there for this. D. Paul said that she hopes there is going to be a cross over information from department to department to help identify grants and resources. Town Planner Mailloux replied that is already in place. A. Chiampa asked for there to be one site for all the water links and documents to be put on the town website for the public. Town Planner Mailloux replied that she would look into putting this on the town website. R. Fillio asked if the town was interested in when residents test their wells and the findings. Town Planner Mailloux responded that this is one of the recommendations to work with residents and gather the data to compile this on a local database noting that this would fall under the Building Department.

Ray Breslin, 3 Gary Drive, addressed the Board. R. Breslin asked who is in charge

of this. Town Planner Mailloux said that she is overseeing this at the moment and would take direction from the Town Manager. R. Breslin asked if any items noted in the 2013 Master Plan were being looked at. Town Planner Mailloux replied that items that have not yet been accomplished from the 2013 Master Plan have been incorporated into this table to make sure they are not forgotten. R. Breslin said that the town cannot do this by themselves and gave an example such as the Southern New Hampshire Planning Commission (SNHPC) to help accomplish this work. He added that he believes the town should move rapidly on this.

C. Davies left the meeting and Chairman Rugg appointed R. Fillio to vote for him for the rest of the meeting.

VI. Adjournment


Member J. Butler made a motion to adjourn the meeting at approximately 9:23 p.m. Seconded by R. Fillio .

The motion was granted by a unanimous roll call vote, 9-0-0.

The meeting adjourned at approximately 9: 23 PM.

These minutes were prepared by Beth Morrison.

Respectfully Submitted,


Name: Al Sypek
Title: Secretary

These minutes were accepted and approved on March 3, 2021, by a motion made by C. Davies and seconded by A. Chiampa.