

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

MINUTES FROM 12/15/21 MEETING

The meeting was called to order at 7:00 p.m. Members introduced themselves. The following members were present: Neil Dunn, Chair; Mitch Feig, alternate member; Irene Macarelli, alternate member; and David Armstrong, alternate member. Chairman Dunn appointed M. Feig, D. Armstrong and I. Macarelli as full voting members this evening. Also, participating was Laura Gandia, Associate Planner; Nick Codner, Chief Building Inspector; and Beth Morrison, Recording Secretary

I. APPROVAL OF MINUTES

I. Macarelli made a motion to accept the November 17, 2021, minutes as presented.

The motion was seconded by M. Feig.

The motion was granted by, 3-0-1, with N. Dunn abstaining.

II. REPORT BY TOWN COUNCIL – None.

III. REGIONAL IMPACT DETERMINATIONS: Associate Planner Gandia informed the Board that she had eight projects for their consideration.

1. CASE NO. 12/15/2021-1: Request for a variance from LZO 4.1.2 Use Table to allow a hair salon as a permitted use in the C-III district which is otherwise prohibited, 1A Commons Drive – Unit 4, Map 10 Lot 001-C-4, Zoned C-III, Lawrence Roberts (Owner) & Chelsea Paquette (Applicant)
2. CASE NO. 12/15/2021-2: Request for a variance from LZO 7.6.D.3.b to allow a total of 108SF of wall signage where only 50 SF are allowed, 66 Nashua Road, Map 7 Lot 40-4, Zoned C-I, The Matarazzo Family Trust (Owner) and Midwest Convenience (Sunoco) (Applicant)
3. CASE NO. 12/15/2021-3: Appeal of an administrative decision from Nick Codner, Chief Building Inspector regarding the interpretation of LZO 5.18.H.2 side or rear yard for the location of an accessory dwelling unit, 162 Old Derry Road, Map 18 Lot 19-4, Zoned AR-1, Xavier & Kristen Correa Morales (Owners & Applicants)
4. CASE NO. 12/15/2021-4: Request for two variances from: (1) LZO 5.18.H.2 to allow an accessory dwelling unit in the front yard; and (2) to allow an accessory dwelling unit 108 SF over what is allowed, 162 Old Derry Road, Map 18 Lot 19-4, Zoned AR-1, Xavier & Kristen Correa Morales (Owners & Applicants)

5. CASE NO. 12/15/2021-5: Request for a variance from LZO 4.1.2 Use Table to allow a hair salon as a permitted use in the C-III district which is otherwise prohibited, 10 Commons Drive – Unit 19, Map 10 Lot 001-C-19, Zoned C-III, RNC Realty, LLC (Owner) & Diane Rossi (Applicant)
6. CASE NO. 12/15/2021-6: Request for a variance from LZO 4.1.2 Use Table to allow a hair salon as a permitted use in the C-III district which is otherwise prohibited, 10 Commons Drive – Unit 20, Map 10 Lot 001-C-20, Zoned C-III, RNC Realty, LLC (Owner) & Diane Rossi (Applicant)
7. CASE NO. 12/15/2021-7: Request for a variance from LZO 5.18.G to allow an accessory dwelling unit that is not consistent with the principal dwelling in appearance, design, colors and materials, 36 Kimball Road, Map 11 Lot 57, Zoned AR-1, David & Sally Faucher (Owners & Applicants)
8. CASE NO. 12/15/2021-8: Request for a variance from LZO 4.2.1.3.B.1 to allow a lot with 100.58 feet of frontage where 150 feet are required, Eight Wiley Hill Road, Map 5 Lot 28, Zoned AR-I, Belize Real Estate Holding, LLC (Owner & Applicant)

M. Feig made a motion that cases number 1-7 are not of regional impact.

The motion was seconded by D. Armstrong.

The motion was granted by, 4-0-0.

M. Feig made a motion that case number 8 is not of regional impact.

The motion was seconded by D. Armstrong.

The motion was granted by, 3-0-1, with I. Macarelli abstaining.

IV. PUBLIC HEARING OF CASES

A. CASE NO. 11/17/2021-3: Request for two variances from (1) LZO 4.2.2.2 (B) to eliminate the use requirement at least 75% of single family and two family dwellings shall be restricted housing for older persons in the multi-family residential (R-III) zone; and (2) LZO 4.2.2.3.B.1.b to allow 55 residential 3 bedroom units where only 35 are permitted, 22 Young Road, Map 6 Lot 53, Zoned R-III, Zoned R-III, Edgar L. Pitts and Winnifred L. Pitts Revocable Trust (Owner) and Cedar Crest Development, LLC (Applicant) – continued from the November 17, 2021, meeting

L. Gandia stated that the applicant did come back with more information that the Board requested, but staff and the applicant are working with the applicant at this time to review the density calculations. She informed the Board that the applicant is requesting to be continued until next month, January 19, 2022.

M. Feig made a motion in CASE NO. 11/17/2021-3 to continue the application to January 19, 2022 to allow the applicant time to review with Town staff the density calculations.

I. Macarelli seconded the motion.

The motion was granted, 4-0-0, to continue the case until January 19, 2022.

B. CASE NO. 11/17/2021-4: Request for two variances from (1) LZO 4.2.2.2.B to eliminate the use requirement of at least 75% of single family and two family dwellings shall be restricted housing for older persons in the multi-family residential (R-III) zone; and (2) LZO 4.2.2.3.B.1.b to allow 55 residential 3 bedroom units where only 35 are permitted, 20 Young Road, Map 6 Lot 53, Zoned R-III, Edgar L. Pitts and Winnifred L. Pitts Revocable Trust (Owner) and Cedar Crest Development, LLC (Applicant) – continued from the November 17, 2021, meeting

L. Gandia stated that the applicant did come back with more information that the Board requested, but staff and the applicant are working with the applicant at this time to review the density calculations. She informed the Board that the applicant is requesting to be continued until next month, January 19, 2022.

M. Feig made a motion in CASE NO. 11/17/2021-4 to continue the application to January 19, 2022 to allow the applicant time to review with Town staff the density calculations.

D. Armstrong seconded the motion.

The motion was granted, 4-0-0, to continue the application until January 19k, 2022.

C. CASE NO. 12/15/2021-1: Request for a variance from LZO 4.1.2 Use Table to allow a hair salon as a permitted use in the C-III district which is otherwise prohibited, 1A Commons Drive – Unit 4, Map 10 Lot 001-C-4, Zoned C-III, Lawrence Roberts (Owner) & Chelsea Paquette (Applicant)

M. Feig read the case into the record noting no previous zoning. Steven Paquette and Chelsea Paquette, 259 Hampstead Road, Derry, NH, addressed the Board. S. Paquette gave the Board Exhibit 1, to review, which is attached hereto. He went over the packet with the Board. He said that the building is currently vacant and C. Paquette would like to purchase this and renovate it. He gave some background on C. Paquette noting she is a licensed cosmetologist for 14 years with a loyal clientele and now would like to own her own property.

He then read the criteria for granting the variance:

- (1) The granting of the variance is not contrary to the public interest: because the attached photographs illustrate the proposed use is similar to that of the surrounding neighborhood.
- (2) The spirit of the ordinance is observed: because the existing zoning of the property is commercial as are the predominant uses in the area of the site. He added that the general welfare of the community will not be adversely affected by the granting of the variance.
- (3) Substantial justice is done: because the loss to the applicant would outweigh any gain to the public.

- (4) Values of surrounding properties are not diminished: because the site is zoned commercial as are all of the uses in the general area of the site. He said that if anything, a vacant business unit would have a more negative affect on property values.
- (5) There is no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because a prior tenant operated the site as an aesthetician, which is similar to what is being proposed. He said that the proposed use is a reasonable one. He noted that there is an existing hair salon already at the site that was granted in 2017 by the Board.

Chairman Dunn asked for questions from the Board. D. Armstrong asked what other business are in the building. S. Paquette reviewed the other tenants in the building, noting there are five units in the building with a DJ business, State Farm, and a mortgage company. M. Feig asked why salons are not allowed in this zone. L. Gandia discussed with the Board the definition of a professional office and read from the zoning ordinance the definition which is as follows: "offices for doctors, dentists, lawyers, engineers, planners, architects, attorneys, insurance, real estate, or investment agencies, or any similar type of profession." Chairman Dunn asked if the parking space requirement changes based on the type of business. N. Codner replied that for a hair salon parking spaces are based on the number of chairs. He asked how many chairs she is proposing. C. Paquette replied that she would like six chairs. N. Codner stated that he did not think this would affect the parking. Chairman Dunn asked for more clarification. N. Codner commented that a business is based on 100 SF per person for parking and reiterated that the did not think it would affect this site. L. Gandia and the Board further discussed the various commercial district. She noted the C-II zoning district and its intent of the C-II district as stated in the zoning ordinance as follows: "to encourage the development of business areas designed to serve the motoring public" and C-III as follows: "is primarily intended for business-professional offices and residential use." She explained that the C-III use acts a buffer between a commercial use and residential use and as a transitional zone from commercial to residential. Chairman Dunn voiced his concern that if she wanted to expand and have more chairs the parking could become a problem. S. Paquette noted that they would be okay if the Board stipulated they can only have six chairs. M. Feig asked to review the variance that was granted for a similar situation in 2017. L. Gandia gave the older variance application and decision to the Board to review. Chairman Dunn said that he would like to find the best way to attach a condition relative to the parking. S. Paquette added that they would comply with the parking, as they have 1200 SF, which works out with two spaces per chair. Chairman Dunn mentioned that since they do not have this information in front of them tonight, his due diligence is to make a condition that parking be verified. D. Armstrong asked if there would be signage. C. Paquette replied that there would be a sign in front of the building. S. Paquette noted that they will comply with the sign ordinance.

Chairman Dunn asked for public input.

Lawrence Roberts, owner at 1A Commons Drive, addressed the Board. L. Roberts noted that there are two parking lots behind building A and B. He said that they usually do not have problems with parking.

The Board closed public input and began deliberation:

- (1) The variance would not be contrary to the public interest: because it does not alter the essential character of the neighborhood or threaten the health, safety or welfare of the general public.

- (2) The spirit of the ordinance would be observed: because it does not threaten the health, safety or welfare of the general public.
- (3) Substantial justice would be done: because the loss to the applicant outweighs any gain to the public.
- (4) Values of the surrounding properties would not be diminished: because the essential character of the neighborhood is not altered as it is all commercial in the area.
- (5) There is not a fair and substantial relationship that exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: because the property is unique because it is all commercial. The proposed use is a reasonable one.

M. Feig made a motion in CASE NO. 12/15/2021-1 to grant the request for a variance from LZO 4.1.2 Use Table to allow a hair salon as a permitted use in the C-III district which is otherwise prohibited, 1A Commons Drive – Unit 4, Map 10 Lot 001-C-4, Zoned C-III, Lawrence Roberts (Owner) & Chelsea Paquette (Applicant) with the condition that there be no more than six chairs and sufficient parking be available (parking calculations to be determined by Town Staff/Planning Board).

D. Armstrong seconded the motion.

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

D. CASE NO. 12/15/2021-2: Request for a variance from LZO 7.6.D.3.b to allow a total of 108 SF of wall signage where only 50 SF are allowed, 66 Nashua Road, Map 7 Lot 40-4, Zoned C-I, The Matarazzo Family Trust (Owner) and Midwest Convenience (Sunoco) (Applicant)

M. Feig read the case into the record noting the previous zoning. Matt Bacon, owner at C & S signs, 16 Liberty Street, Manchester, NH, addressed the Board. Chairman Dunn asked why the representative listed on the application was not present before the Board this evening. M. Bacon told the Board that Carolyn Parker, the representative listed could not make it this evening. Chairman Dunn stated that there is no documentation in the file for this. L. Gandia noted that she also did not have any paperwork indicating that M. Bacon could present on behalf of the owner/applicant. M. Bacon reviewed his title and work experience. Chairman Dunn voiced his concern regarding having an inconsistency or irregularity if the applicant filed for an appeal. D. Armstrong stated that he is not comfortable. The consensus of the Board was to continue the case until the representative listed on the application can make it or provide a letter of authorization for someone else to present the case.

M. Feig made a motion in CASE NO. 12/15/2021-2 to continue the application to January 19, 2022 as there was not proper documentation from the presenters demonstrating that they had authorization to present on behalf of the owner and/or applicant.

I. Macarelli seconded the motion.

The motion was granted, 4-0-0, to continue the case until January 19, 2022.

E. CASE NO. 12/15/2021-3: Appeal of an administrative decision from Nick Codner, Chief Building Inspector regarding the interpretation of LZO 5.18.H.2 side or rear yard for the location of an accessory dwelling unit, 126 Old Derry Road, Map 18 Lot 19-4, Zoned AR-1, Xavier & Kristen Correa Morales (Owners & Applicants)

M. Feig read the case into the record noting that there is no previous zoning. Xavier and Kristen Correa Morales, owners at 126 Old Derry Road, addressed the Board. X. Correa Morales explained that their lot is unique as a corner lot with three surrounding streets. He said that their front door looks out to Old Derry Road and the accessory dwelling unit (ADU) is on the side facing Manter Mill Road. He stated that in their opinion, the ADU is on the side and/or rear of their property. Chairman Dunn pointed out that it is complicated when a property is bounded by three roads, so all three would be considered frontage. X. Correa Morales added that if the question is whether it is a detached unit, they are proposing to place a roof structure on it. M. Feig asked N. Codner for his interpretation. N. Codner read from the zoning ordinance stating frontage is defined as: "the continuous linear extent of a lot measured along any highway or right-of-way from the intersection of one side lot line to the intersection of the other side lot line of the same lot." He stated that the applicant has this on three sides of his house. He then read another section of the zoning ordinance, Section 4.2.1.3, noting: "If a property abuts more than one existing and/or proposed right of way, the building setback will be forty (40) feet from each right of way." He explained that you cannot use the configuration of a house when determining this because you can orient a house anyway on a lot that you want. He said that usually one would consider the front yard as a plane along the front of the house from one lot line to the other parallel to the road. He reviewed some different examples with the Board. He pointed out that the applicant has three front yards and a side yard. He added that this would be a hardship for the variance case. M. Feig asked how frontage is determined. N. Codner replied that there is a definition in the zoning ordinance. He mentioned that you cannot go by the address as well.

Chairman Dunn asked for public input and there was none.

M. Feig made a motion in CASE NO. 12/15/2021-3 to DENY the appeal of an administrative decision from Nick Codner, Chief Building Inspector regarding the interpretation of LZO 5.18.H.2 side or rear yard for the location of an accessory dwelling unit, 126 Old Derry Road, Map 18 Lot 19-4, Zoned AR-1, Xavier & Kristen Correa Morales (Owners & Applicants)

I. Macarelli seconded the motion.

The motion passed, 4-0-0. The applicant's appeal of an administrative decision was **DENIED**. The appeal was denied for the following reasons: The Code Enforcement Officer's interpretation of what constitutes a front yard using the plane of the house considering setbacks was reasonable.

F. CASE NO. 12/15/2021-4: Request for two variances from: (1) LZO 5.18.H.2 to allow an accessory dwelling unit in the front yard; and (2) to allow an accessory dwelling unit 108 SF over what is allowed, 126 Old Derry Road, Map 18 Lot 19-4, Zoned AR-1, Xavier & Kristen Correa Morales (Owners & Applicants)

M. Feig read the case into the record noting the previous zoning. Xavier and Kristen Correa Morales, owners at 126 Old Derry Road addressed the Board. X. Correa Morales told the Board that it does not make sense to put the ADU anywhere else on his property due to the three frontages and topography of the lot.

He then read the criteria for granting the variance:

- (1) The granting of the variance is not contrary to the public interest: because it does not alter the essential character of the neighborhood.
- (2) The spirit of the ordinance is observed: because the ADU will not change the exterior appearance.
- (3) Substantial justice is done: because the loss to the applicant outweigh any gain to the public.
- (4) Values of surrounding properties are not diminished: because it would in fact enhance the property values to complete the ADU and they have a letter from a realtor in support.
- (5) There is no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the property is unique as it is a corner lot, surrounded by three roadways, as well as the location of the septic and leach field. He said that the proposed use is a reasonable one.

Chairman Dunn asked for questions from the Board. He asked when the building was done. X. Correa Morales replied he believes the addition was built in the early 2000s. Chairman Dunn asked if permits were pulled, but it was not permitted as an ADU. N. Codner replied that it is a garage with a storage area now, and the applicant would like to make it an ADU now. X. Correa Morales told the Board the garage is 36-feet by 26-feet and they are allowed 712 SF in relation to their principal dwelling, but they would like to have the ADU be 815 SF, which is about 103 SF over the allowable limit. D. Armstrong asked if the garage is attached to the house. X. Correa Morales replied that it is attached to the deck, but you have to go outside. M. Feig asked if they are expanding the size building. X. Correa Morales replied that they are not expanding the size of the building. He offered a conceptual layout that he brought to the Board. D. Armstrong voiced his concern that this could become a rental apartment. N. Codner commented that there is nothing in the ordinance to prevent them from renting it out as long as the principal owner lives in one of the dwellings. I. Macarelli asked if the Board could place a restriction on having the ADU only for family members. N. Codner noted that is why it is called an ADU versus an in-law apartment.

Chairman Dunn asked for public input. M. Feig read a letter in support from a realtor, Exhibit 2, into the record, which is attached hereto. He read a letter in support of granting the variance, Exhibit 3, into the record.

The Board closed public input and began deliberation LZO 5.18.H.2 to allow an accessory dwelling unit in the front yard:

- (1) The variance would not be contrary to the public interest: because it would not alter the essential character of the neighborhood.
- (2) The spirit of the ordinance would be observed: because the essential character of the neighborhood is not altered.

- (3) Substantial justice would be done: because the loss to the applicant would be greater than any gain to the general public.
- (4) Values of the surrounding properties would not be diminished: because the essential character of the neighborhood is not altered and they have a letter in support from the realtor.
- (5) There is not a fair and substantial relationship that exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: because the property is unique as it has three roadways, which create three front yards, it is a corner lot and is an existing building. The proposed use is a reasonable one.

M. Feig made a motion in CASE NO. 12/15/2021-4 to grant the request from LZO 5.18.H.2 to allow an accessory dwelling unit in the front yard, 126 Old Derry Road, Map 18 Lot 19-4, Zoned AR-1, Xavier & Kristen Correa Morales (Owners & Applicants)

I. Macarelli seconded the motion.

The motion was granted, 4-0-0. The request for the variance was GRANTED.

The Board closed public input and began deliberation to allow an accessory dwelling unit 108 SF over what is allowed:

- (1) The variance would not be contrary to the public interest: because it would not alter the essential character of the neighborhood.
- (2) The spirit of the ordinance would be observed: because it would threaten the health, safety or welfare of the general public.
- (3) Substantial justice would be done: because the loss to the applicant would outweigh any gain to the general public.
- (4) Values of the surrounding properties would not be diminished: because the essential character of the neighborhood is not altered and they have a letter in support from the realtor.
- (5) There is not a fair and substantial relationship that exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: because the property is unique as it has three roadways, which create three front yards, corner lot and is an existing building. The proposed use is a reasonable one.

M. Feig made a motion in CASE NO. 12/15/2021-4 to grant the request from LZO 5.18.H.2 to allow an accessory dwelling unit 108 SF over what is allowed 126 Old Derry Road, Map 18 Lot 19-4, Zoned AR-1, Xavier & Kristen Correa Morales (Owners & Applicants)

I. Macarelli seconded the motion.

The motion was granted, 4-0-0. The request for a variance was GRANTED.

G. CASE NO. 12/15/2021-5: Request for a variance from LZO 4.1.2 Use Table to allow a hair salon as a permitted use in the C-III district which is otherwise prohibited, 10 Commons Drive – Unit 19, Map 10 Lot 001-C-19, Zoned C-III, RNC Realty, LLC (Owner) & Diane Rossi (Applicant)

M. Feig read the case into the record noting no previous zoning. Steven Paquette, Stephanie Lawrence and Diane Rossi, addressed the Board. S. Paquette asked the Board if he should go through both variances, Case G and Case H, as they are going to use both properties. He noted that they are leasing the properties. Chairman Dunn commented that they could be presented together if the arguments are the same. S. Paquette noted that this particular address is close to the back end of Commons Drive. He gave the Board a packet, Exhibit 4, for them to review, which is attached hereto. He noted that Diane Rossi operates a The Blank Canvass Salon now, which was the variance that was granted in 2017. He said that this is a 20-chair salon that has been in operation since 2017. He explained that they would like to have 11 new individual suites in units 19 and 20 for new startups for stylists. He added that they are proposing 14 chairs, which would require 28 parking spots, which they feel they comply with.

He then read the criteria for granting the variance:

- (1) The granting of the variance is not contrary to the public interest: because as the attached photos illustrate, the proposed use is similar to the surrounding neighborhood and the salon across the street.
- (2) The spirit of the ordinance is observed: because the existing zoning of the building is commercial and the community will not be adversely affected by the granting of the variance.
- (3) Substantial justice is done: because the loss to the applicant would not outweigh any gain to the public.
- (4) Values of surrounding properties are not diminished: because a vacant property would have more affect on property values than an established business.
- (5) There is no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because there is an existing hair salon that is operating in this zone now and it is indistinguishable from other business in the area. He said that the proposed use is a reasonable one.

Chairman Dunn asked for questions from the Board. D. Armstrong asked how many units. S. Paquette replied that there are two condominium units totaling about 2,700 SF. D. Armstrong asked if The Blank Canvass Salon was planning on moving the business. S. Paquette replied that she is not as that is a traditional hair salon. He added that the character of the new business is great for someone starting out in the business to lease a small space. D. Armstrong asked if they would rent a space versus a chair. S. Paquette replied that is correct. M. Feig stated that this is more of rent-a-space lease and asked if they would all be related or would all be their own business. Stephanie Morris, resident of Salem, NH, addressed the Board. S. Morris informed the Board that with the pandemic, stylists want their own space in which they would create their own business and comply with all the state rules and regulations. She said that they can create their own space without having to buy a building. M. Feig asked if they would share any staff. S. Morris replied that there would be a manager to help everything run smoothly and answer any questions. Chairman Dunn asked how the checking of licensing is done. S. Morris replied that the state checks the license. Chairman Dunn asked if they have to post their license. S. Morris responded that they do. Chairman Dunn commented that usually they have concerns with chemicals. S. Morris mentioned that every space would have their own ventilation and comply with whatever the state requires. N. Codner pointed out that they are not as stringent as with nail salons. Chairman Dunn asked if the Board should clarify that a nail salon would be another variance with other requirements. S. Paquette stated that this will not be a nail salon establishment. S. Morris noted that nail artist do rent

suites, but in this area, there are not a lot of nail artists that want this. Chairman Dunn informed the applicant that the variance runs with the property. N. Codner clarified that the variance request is for a hair salon. D. Armstrong said that the Board could stipulate that this is only for a hair salon in the conditions. He asked if they would have a common laundry. S. Morris replied they would have common laundry. M. Feig asked if they are each going to have a separate name. S. Morris replied that is correct. D. Armstrong asked for the name of the building. S. Morris responded that the name will be Blank Canvas Salon Suites. S. Paquette noted that the interior layout would have to be approved by the Building Department.

Chairman Dunn asked for public input and there was none.

Chairman Dunn brought the discussion back to the Board as there was no public input. He asked if N. Codner had any issues or concerns regarding licensing. N. Codner replied that they are licensed through the state and would go for permits through the Building Department. Chairman Dunn voiced his opinion, that there is less parking in this area. S. Paquette reiterated that they are okay with the condition of parking as noted on the other variance the Board granted this evening for the hair salon. L. Gandia mentioned that parking would need to be reviewed by the Planning Board and/or Staff and if there is an issue with parking, they would have to go to the Planning Board. M. Feig asked if the Board should be concerned about the ownership issue, as unit 19 and 20 could be split up in the future. Chairman Dunn stated that if the next owner is not for a salon and is a permitted use, they would have to comply. N. Codner mentioned that they are going to have to go before the Planning Board for the parking, and since this is a change of use, they will need an amendment to their site plan. Chairman Dunn asked if this would be true for the first hair salon case the Board heard this evening. N. Codner replied that is correct. Chairman Dunn asked if the Planning Board can waive the parking requirement. N. Codner replied that the Planning Board can grant a waiver to parking. Chairman Dunn stated that his concern is regarding parking. N. Codner commented that parking is based on square footage, not based on chairs, so someone is going to have to perform an analysis to illustrate that the parking is sufficient. S. Paquette asked if they will need to go before the Planning Board if they can prove they comply from a zoning standpoint with the parking calculations. N. Codner responded that they will need to go before the Planning Board due to the change of use and may need to amend the site plan through the analysis. S. Paquette asked if he can come by and review the site plan with someone. N. Codner told him to call him tomorrow to set up an appointment. S. Paquette asked if this would be a public hearing. L. Gandia replied that the Town Planner would make that determination. Chairman Dunn asked how they might clarify the conditions. He asked for a breakdown on the chairs. S. Morris replied that they are asking for seven suites in each unit.

The Board closed public input and began deliberation:

- (1) The variance would not be contrary to the public interest: because it would not alter the essential character of the neighborhood.
- (2) The spirit of the ordinance would be observed: because there is no threat to the health, safety or welfare of the general public.
- (3) Substantial justice would be done: because the loss to the applicant would outweigh any gain to the general public.
- (4) Values of the surrounding properties would not be diminished: because the essential character of the neighborhood is not altered and is similar to the other businesses in the area.

(5) There is not a fair and substantial relationship that exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: because the property is unique as it is all commercial and does not abut any residential areas. The proposed use is a reasonable one.

M. Feig made a motion in CASE NO. 12/15/2021-5 to grant the request for a variance from LZO 4.1.2 Use Table to allow a hair salon as a permitted use in the C-III district which is otherwise prohibited, 10 Commons Drive – Unit 19, Map 10 Lot 001-C-19, Zoned C-III, RNC Realty, LLC (Owner) & Diane Rossi (Applicant) with the conditions that there be no more than seven chairs and sufficient parking is available (parking calculations to be determined by Town Staff/Planning Board).

D. Armstrong seconded the motion.

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

H. CASE NO. 12/15/2021-6: Request for a variance from LZO 4.1.2 Use Table to allow a hair salon as a permitted use in the C-III district which is otherwise prohibited, 10 Commons Drive – Unit 20, Map 10 Lot 001-C-20, Zoned C-III, RNC Realty, LLC (Owner) & Diane Rossi (Applicant)

M. Feig read the case into the record noting no previous zoning. Steven Paquette, Stephanie Lawrence and Diane Rossi, addressed the Board. S. Paquette asked the Board if he should go through both variances, Case G and Case H, as they are going to use both properties. He noted that they are leasing the properties. Chairman Dunn commented that they could be presented together if the arguments are the same. S. Paquette noted that this particular address is close to the back end of Commons Drive. He gave the Board a packet, Exhibit 4, for them to review, which is attached hereto. He noted that Diane Rossi operates a The Blank Canvass Salon now, which was the variance that was granted in 2017. He said that this is a 20-chair salon that has been in operation since 2017. He explained that they would like to have 11 new individual suites in units 19 and 20 for new startups for stylists. He added that they are proposing 14 chairs, which would require 28 parking spots, which they feel they comply with.

He then read the criteria for granting the variance:

- (1) The granting of the variance is not contrary to the public interest: because as the attached photos illustrate, the proposed use is similar to the surrounding neighborhood and the salon across the street.
- (2) The spirit of the ordinance is observed: because the existing zoning of the building is commercial and the community will not be adversely affected by the granting of the variance.
- (3) Substantial justice is done: because the loss to the applicant would not outweigh any gain to the public.
- (4) Values of surrounding properties are not diminished: because a vacant property would have more affect on property values than an established business.

- (5) There is no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because there is an existing hair salon that is operating in this zone now and it is indistinguishable from other business in the area. He said that the proposed use is a reasonable one.

Chairman Dunn asked for questions from the Board. D. Armstrong asked how many units. S. Paquette replied that there are two condominium units totaling about 2,700 SF. D. Armstrong asked if The Blank Canvass Salon was planning on moving the business. S. Paquette replied that she is not as that is a traditional hair salon. He added that the character of the new business is great for someone starting out in the business to lease a small space. D. Armstrong asked if they would rent a space versus a chair. S. Paquette replied that is correct. M. Feig stated that this is more of rent-a-space lease and asked if they would all be related or would all be their own business. Stephanie Morris, resident of Salem, NH, addressed the Board. S. Morris informed the Board that with the pandemic, stylists want their own space in which they would create their own business and comply with all the state rules and regulations. She said that they can create their own space without having to buy a building. M. Feig asked if they would share any staff. S. Morris replied that there would be a manager to help everything run smoothly and answer any questions. Chairman Dunn asked how the checking of licensing is done. S. Morris replied that the state checks the license. Chairman Dunn asked if they have to post their license. S. Morris responded that they do. Chairman Dunn commented that usually they have concerns with chemicals. S. Morris mentioned that every space would have their own ventilation and comply with whatever the state requires. N. Codner pointed out that they are not as stringent as with nail salons. Chairman Dunn asked if the Board should clarify that a nail salon would be another variance with other requirements. S. Paquette stated that this will not be a nail salon establishment. S. Morris noted that nail artist do rent suites, but in this area, there are not a lot of nail artists that want this. Chairman Dunn informed the applicant that the variance runs with the property. N. Codner clarified that the variance request is for a hair salon. D. Armstrong said that the Board could stipulate that this is only for a hair salon in the conditions. He asked if they would have a common laundry. S. Morris replied they would have common laundry. M. Feig asked if they are each going to have a separate name. S. Morris replied that is correct. D. Armstrong asked for the name of the building. S. Morris responded that the name will be Blank Canvas Salon Suites. S. Paquette noted that the interior layout would have to be approved by the Building Department.

Chairman Dunn asked for public input and there was none.

Chairman Dunn brought the discussion back to the Board as there was no public input. He asked if N. Codner had any issues or concerns regarding licensing. N. Codner replied that they are licensed through the state and would go for permits through the Building Department. Chairman Dunn voiced his opinion, that there is less parking in this area. S. Paquette reiterated that they are okay with the condition of parking as noted on the other variance the Board granted this evening for the hair salon. L. Gandia mentioned that parking would need to be reviewed by the Planning Board and/or Staff and if there is an issue with parking, they would have to go to the Planning Board. M. Feig asked if the Board should be concerned about the ownership issue, as unit 19 and 20 could be split up in the future. Chairman Dunn stated that if the next owner is not for a salon and is a permitted use, they would have to comply. N. Codner mentioned that they are going to have to go before the Planning Board for the parking, and since this is a change of use, they will need an amendment to their site plan. Chairman Dunn asked if this would

be true for the first hair salon case the Board heard this evening. N. Codner replied that is correct. Chairman Dunn asked if the Planning Board can waive the parking requirement. N. Codner replied that the Planning Board can grant a waiver to parking. Chairman Dunn stated that his concern is regarding parking. N. Codner commented that parking is based on square footage, not based on chairs, so someone is going to have to perform an analysis to illustrate that the parking is sufficient. S. Paquette asked if they will need to go before the Planning Board if they can prove they comply from a zoning standpoint with the parking calculations. N. Codner responded that they will need to go before the Planning Board due to the change of use and may need to amend the site plan through the analysis. S. Paquette asked if he can come by and review the site plan with someone. N. Codner told him to call him tomorrow to set up an appointment. S. Paquette asked if this would be a public hearing. L. Gandia replied that the Town Planner would make that determination. Chairman Dunn asked how they might clarify the conditions. He asked for a breakdown on the chairs. S. Morris replied that they are asking for seven suites in each unit.

The Board closed public input and began deliberation:

- (1) The variance would not be contrary to the public interest: because it would not alter the essential character of the neighborhood.
- (2) The spirit of the ordinance would be observed: because there is no threat to the health, safety or welfare of the general public.
- (3) Substantial justice would be done: because the loss to the applicant would outweigh any gain to the general public.
- (4) Values of the surrounding properties would not be diminished: because the essential character of the neighborhood is not altered and is similar to the other businesses in the area.
- (5) There is not a fair and substantial relationship that exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: because the property is unique as it is all commercial and does not abut any residential areas. The proposed use is a reasonable one.

M. Feig made a motion in CASE NO. 12/15/2021-6 to grant the request for a variance from LZO 4.1.2 Use Table to allow a hair salon as a permitted use in the C-III district which is otherwise prohibited, 10 Commons Drive – Unit 20, Map 10 Lot 001-C-20, Zoned C-III, RNC Realty, LLC (Owner) & Diane Rossi (Applicant) to with the following conditions that there be no more than seven chairs and sufficient parking is available (parking calculations to be determined by Town Staff/Planning Board).

D. Armstrong seconded the motion.

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

(The Board took a five-minute break at this time)

I. CASE NO. 12/15/2021-7: Request for a variance from LZO 5.18.G to allow an accessory dwelling unit that is not consistent with the principal dwelling in appearance, design,

**colors and materials, 36 Kimball Road, Map 11 Lot 57, Zoned AR-1, David & Sally Faucher
(Owners & Applicants)**

M. Feig read the case into the record noting the previous zoning. Sally and David Faucher, owners at 36 Kimball Road, addressed the Board. S. Faucher told the Board that their house is from the 1800s and the material is going to be different, as the type of siding that is on their house you cannot find anymore. She added that it will also be different as they want to use a mobile home as the ADU. She said that it is out of view, as it is behind the garage and the land slopes down. She noted that they have a mobile home and a six-unit apartment building across the street. She said that the person that live at 38 Kimball Road would have the clearest view of the mobile home and they are in support of the variance. She said that 39 Kimball Road is also in support of the granting the variance.

She then read the criteria for granting the variance:

- (1) The granting of the variance is not contrary to the public interest: because it will not alter the essential character of the neighborhood, as there is a mobile home across the street and is barely visible from the street.
- (2) The spirit of the ordinance is observed: because it is pleasing and looks good, and abides by all other requirements in the section of the ordinance.
- (3) Substantial justice is done: because the loss to the applicant would not outweigh any gain to the public.
- (4) Values of surrounding properties are not diminished: because the ADU will not decrease values as it is behind the property and can barely be seen from the road.
- (5) There is no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the property is unique as it is a corner lot, is bigger than other lots in the area, has wetlands, and abuts Granite Ridge. She said that the proposed use is a reasonable one.

Chairman Dunn asked for questions from the Board. D. Armstrong asked for clarification on where the ADU is situated. S. Faucher reviewed where the ADU would be located. She had a picture of the mobile home that she emailed L. Gandia a few minutes ago, but did not come through, so she passed her cell phone around for the Board to view the location. Chairman Dunn asked if this is already installed. S. Faucher replied that they have everything but electric. D. Armstrong asked if they lived in the primary residence. S. Faucher replied that they live in the main house and would like to use this for their son who lives with them now.

Chairman Dunn asked for public input. M. Feig read a letter of support from two neighbors, Exhibit 5, which is attached hereto.

The Board closed public input and began deliberation:

- (1) The variance would not be contrary to the public interest: because it would not alter the essential character of the neighborhood.

- (2) The spirit of the ordinance would be observed: because there is no threat to the health, safety or welfare of the general public or alter the essential character of the neighborhood.
- (3) Substantial justice would be done: because the loss to the applicant would be greater than any gain to the general public.
- (4) Values of the surrounding properties would not be diminished: because the essential character of the neighborhood is not altered.
- (5) There is not a fair and substantial relationship that exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: because the property is unique as it is a corner lot, bigger than the other lots in the area, abuts wetlands and Granite Ridge. The proposed use is a reasonable one.

M. Feig made a CASE NO. 12/15/2021-7 to grant the request for a variance from LZO 5.18.G to allow an accessory dwelling unit that is not consistent with the principal dwelling in appearance, design, colors and materials, 36 Kimball Road, Map 11 Lot 57, Zoned AR-1, David & Sally Faucher (Owners & Applicants)

I. Macarelli seconded the motion.

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

J. CASE NO. 12/15/2021-8: Request for a variance from LZO 4.2.1.3.B.1 to allow a lot with 100.58 feet of frontage where 150 feet are required, Eight Wiley Hill Road, Map 5 Lot 28, Zoned AR-I, Belize Real Estate Holding, LLC (Owner & Applicant)

M. Feig read the case into the record. I. Macarelli recused herself from this case. Doug MacGuire, P.E., from The Dubai Group, representing the applicant, informed the Board that they would like to continue the application as there will only be three members on the Board.

M. Feig made a motion in CASE NO. 12/15/2021-8 to grant the applicant's request for a continuance due to a three member board to January 19, 2022.

D. Armstrong seconded the motion.

The motion was granted, 3-0-0. The applicant's request for a continuation until January 19, 2022, was granted.

VI. Other Business - None


Adjournment:

M. Feig made a motion to adjourn at 10:01 p.m.

I. Macarelli seconded the motion.

The motion was granted, 4-0-0. The meeting adjourned at 10:01 p.m.

RESPECTFULLY SUBMITTED,



CLERK

TYPED AND TRANSCRIBED BY Beth Morrison, Recording Secretary.

APPROVED (X) WITH A MOTION MADE BY M. Feig, SECONDED BY Dr. Armstrong, 3-0-0

Variance request for Chelsea Paquette

Location of property, 1A Commons Drive unit #4

Tax map parcel 10, lot 10-1C

Existing zone C-3

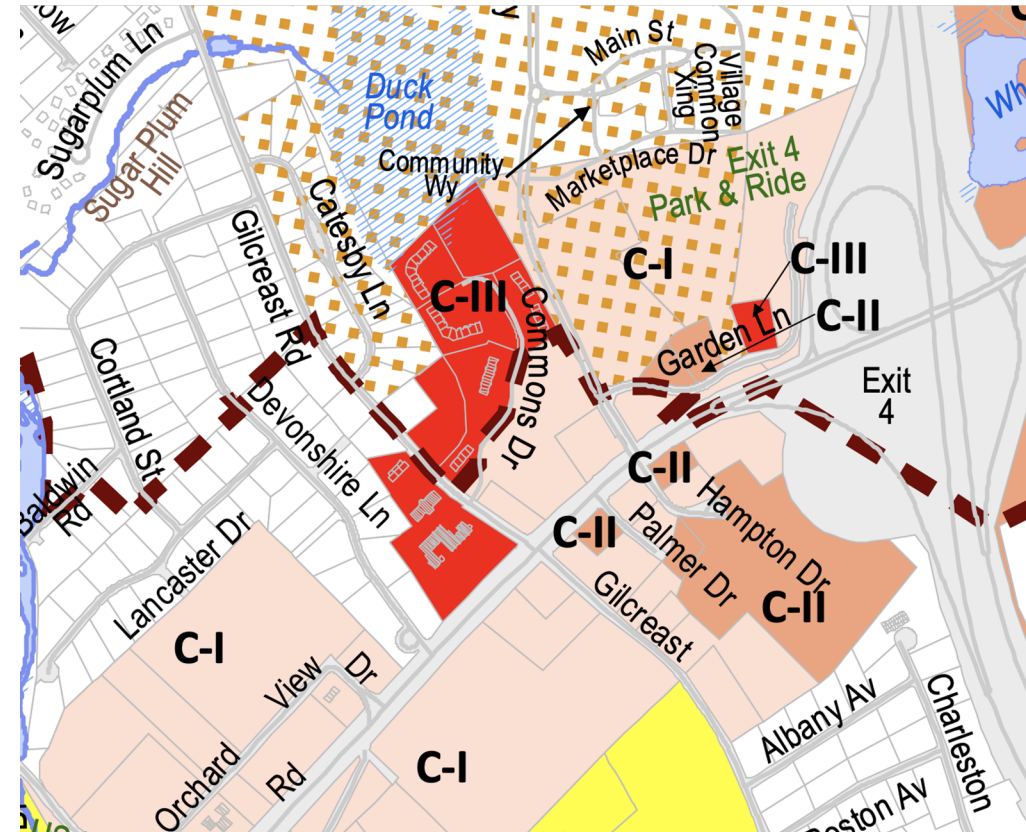


Table 4-1

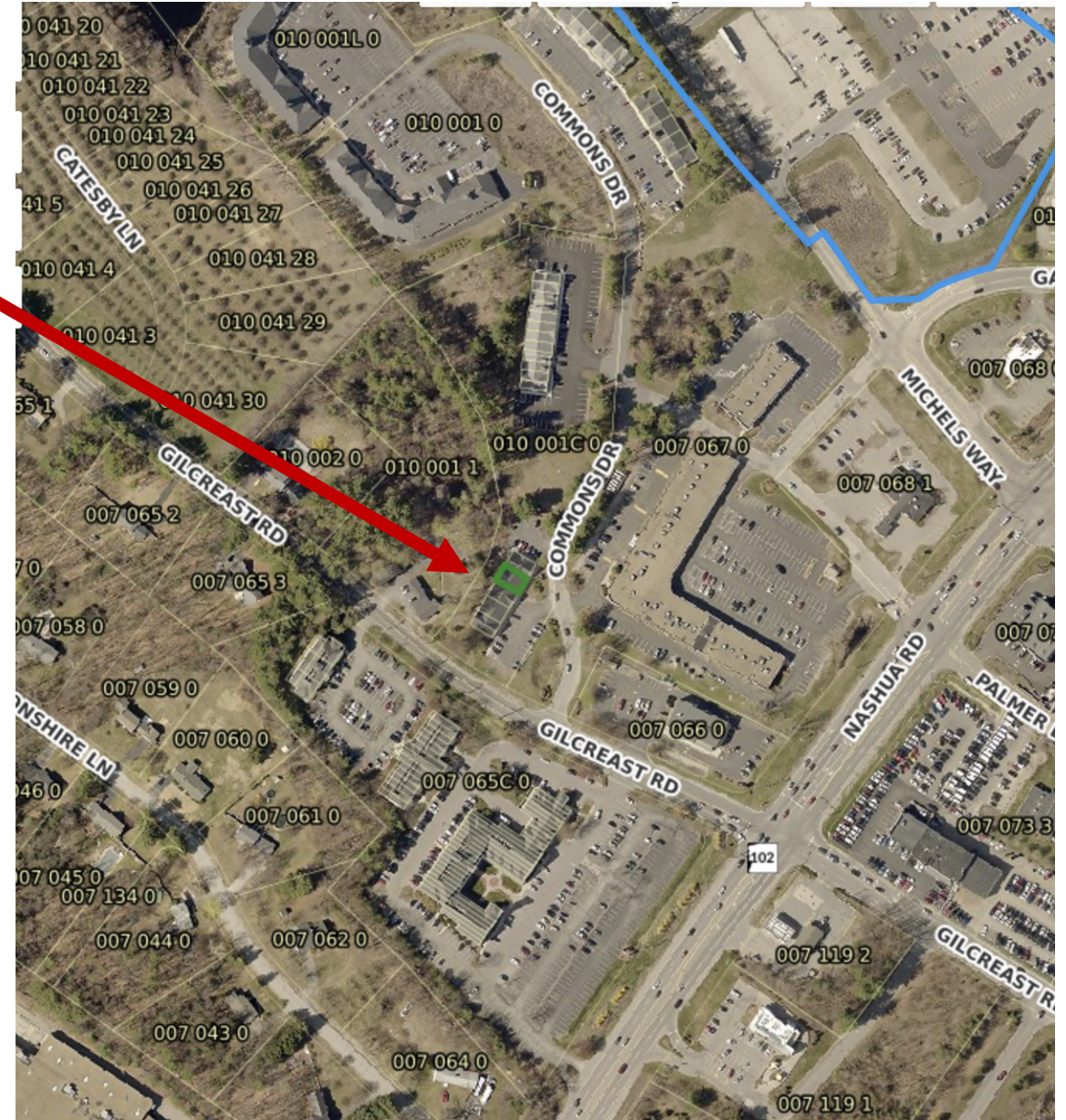
Londonderry Zoning Ordinance Use Table

P = Permitted Use C = Requires Conditional Use Permit S = Requires Special Exception

	AR-1	R-III	C-I	C-II	C-III	C-IV	MUC	IND-I	IND-II	GB	PUD	AD	POD - 102 ¹	POD - 28 ¹
School, Private					P						P ⁴		P	P
Service establishment			P	P			P	P	P		P ⁴	P	P	P

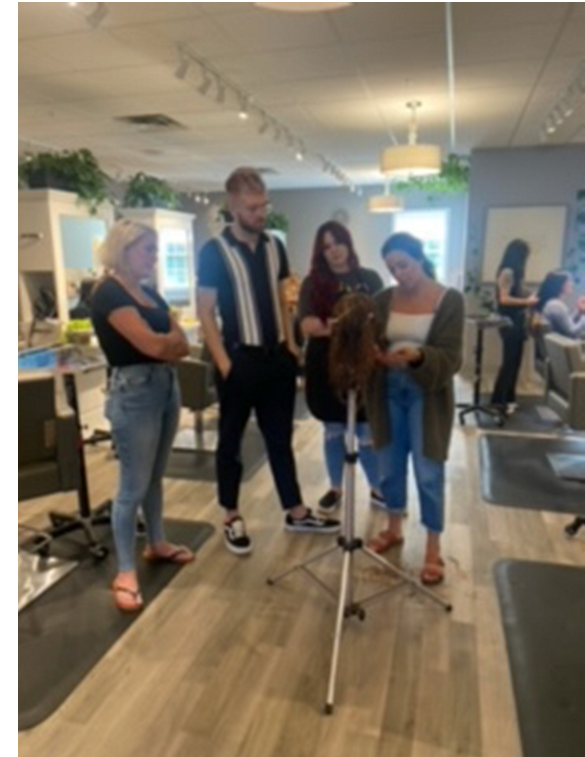
Aerial view of site location

Front elevation of 1A Commons Drive



The applicant, Chelsea Paquette has been a licensed cosmetologist for 14 years and has slowly built a very loyal clientele. After becoming an independent contractor and running her own business for the past four years, she's taking the next step to owning your own business.

As a business owner, community and belonging are two things that are very important to her. Her goal is to create a local business that supports not only the people working there, but other local businesses as well.



1...The variance will not be contrary to the public interest:

As the attached photos illustrate, the proposed use is similar to that of the surrounding neighborhood. Granting the variance will therefore be in the public interest as well as in keeping with the surrounding business uses.

2...The Spirit of the ordinance is observed:

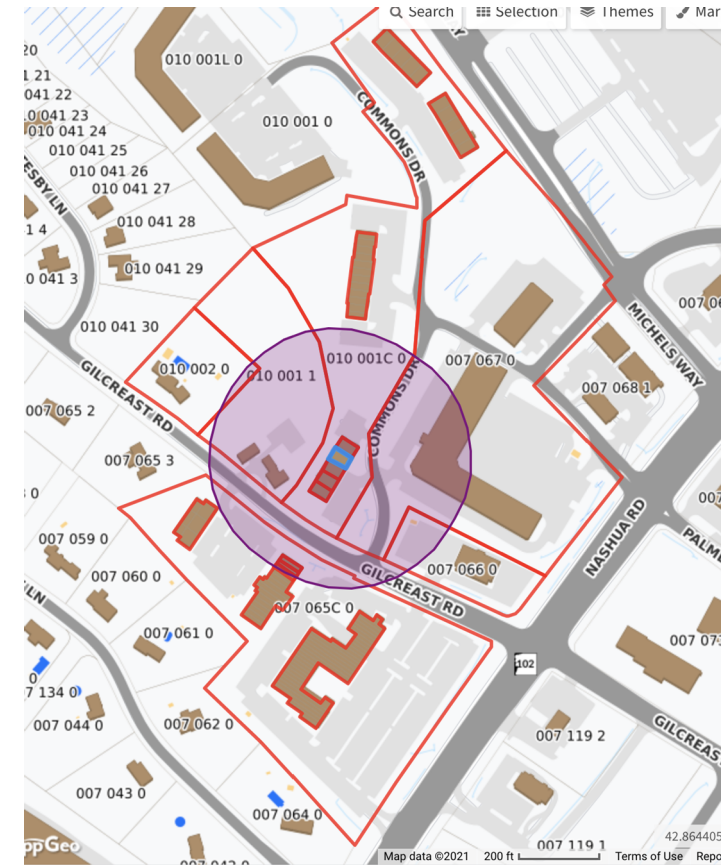
The existing zoning of the property is commercial as are the predominant uses in the area of the site. The general welfare of the community will not be adversely affected by the granting of this variance.

3...substantial justice is done:

The granting of the variance will not result in any harm to abutting businesses. The proposed use is very compatible with other business uses in the area. As a result substantial justice will be done by the granting of the variance.

4...The values of the surrounding properties are not diminished:

The site is zoned commercial as are all of the uses in the general area of the site. If anything, a vacant business unit would have a more negative affect on property values therefore the values of the surrounding business owners will not be adversely affected.



5...Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

(A). For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area.

(i) No fair and substantial relationship exist between the general public purposes of the ordinance provision and the specific application of that provision to the property; and

A prior tenant of the site operated an aesthetician business, offering facials, manicures, acupuncture services and other similar personal care services. Such a use is very much in keeping with the proposed use of the applicant as a hair salon.

(ii) The proposed use is a reasonable one.

The proposed use will not result in any exterior changes to the building nor will it have any negative impact to the surrounding businesses. There is an existing hair salon in the immediate vicinity of the site also zoned C-3.

(B)... if the criteria in subparagraph (A) or not established, and unnecessary hardship will be deemed to exist, if and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance and variance is therefore necessary to enable a reasonable use of it.

the proposed use is indistinguishable from other businesses in terms of the exterior façade and customer traffic. Denial of the variance would present a hardship given the nature of similar existing businesses in the neighborhood, as well as prior permitted uses that are very similar in nature to that proposed with this variance application, as illustrated with the photograph below.

A similar variance was granted in June 2017 for the hair salon located at 1F Commons Drive, in the same area and zone of the proposed site.



**Blank Canvas Hair
Salon
1F Commons Drive**

**Variance granted
by the
Londonderry ZBA
June, 2017**



General site location
photographs



RE: 126 Old Derry Road - Accessory Dwelling Unit Approval

To Whom It May Concern:

I am a licensed Realtor® with Jill & Co. Realty Group in Salem NH. I helped Xavier and Kristina Correa Morales purchase their beautiful home this past May. When looking at the home prior to purchase, it was evident the space above the 3 stall garage was a perfect location for Kristina's aging parents. The construction of the garage was perfect to allow for a nice one level living space for them where Kristina and Xavier would be able to keep a watchful eye on them and enjoy added family time. We were thrilled to have won the offer and they were able to recognize their dream of home ownership.

The trends over the past year or so during the pandemic have shown a huge increase in families moving in together. In a recent NY Times article dated Jul 9, 2021 - **The Family That Buys Together Stays Together** -

"In a national survey from April to June 2020, during the first wave of the virus, 15 percent of home buyers said they bought multigenerational homes, the highest share since 2012, when the group began asking the question. In the eight months before the outbreak, only 11 percent had bought homes to live with multiple generations of family. The most common reason cited for the purchase was to bring aging parents into the home, because of concerns about isolation and the spread of Covid-19 in senior housing. It also reflects a desire to have grandparents help with child care, Ms. Lautz said, with so many parents either working from home or on new schedules."

As you can see below, 10 homes in Londonderry were sold with many going over asking price bringing extra added market value to those neighborhoods. It is a win win for this family and the town of Londonderry to allow this Accessory Dwelling Unit approval. I would be happy to speak to you further about this if you have any questions.

Sincerely,

Kimberley A. Tufts, M.Ed. Realtor®

Jill & Co. Realty Group



Address	City	State	Date - MLS List	Price - List	Original L	PriceCld	DtClosed
243 High Range Road	Londonderry	NH	6/15/2021	\$379,900.00	\$379,900.00	\$365,000.00	7/30/2021
64 Mammoth Road	Londonderry	NH	6/3/2021	\$425,000.00	\$425,000.00	\$451,000.00	8/19/2021
11 Lancaster Drive	Londonderry	NH	4/21/2021	\$400,000.00	\$400,000.00	\$460,000.00	6/14/2021
80 Old Derry Road	Londonderry	NH	11/16/2021	\$465,000.00	\$465,000.00		
2 Merlin Place	Londonderry	NH	5/10/2021	\$499,000.00	\$499,000.00	\$494,900.00	6/30/2021
62 Hovey Road	Londonderry	NH	5/10/2021	\$535,000.00	\$535,000.00	\$500,000.00	6/25/2021
138A High Range Road	Londonderry	NH	7/7/2021	\$524,900.00	\$579,400.00	\$500,000.00	10/4/2021
4 Silas Rock Drive	Londonderry	NH	6/29/2020	\$727,700.00	\$727,700.00	\$727,700.00	1/15/2021
26 Lantern Lane	Londonderry	NH	2/25/2021	\$699,000.00	\$699,000.00	\$750,000.00	4/21/2021
1 Dragonfly Way	Londonderry	NH	5/21/2021	\$825,000.00	\$825,000.00	\$895,000.00	7/12/2021

Neighbor outreach for Variance

Kristina & Xavier Correa Morales
126 Old Derry Rd
Londonderry NH 03053

Dear Neighbor,

We would like to share with you our interest is creating an additional Dwelling Unit on the 2nd level of our already exiting 3 car garage. This ADU will not change the appearance of our property nor will it affect the appearance of the neighborhood. Kindly let us know your thoughts. Please indicate if you approve or oppose of this construction.

Matthew Compameschi of 3 Manter Mill Rd

Approve ☒ Oppose ☐


Comments: -

Signature: 

Richard LaRochelle of 126 Old Derry Rd

Approve ☒ Oppose ☐

Comments:

Signature: 

Carl + Tracy Currier of 128³ Old Derry Rd

Approve ☒ Oppose ☐

Comments:

Signature: 

Variance request for Diane Rossi

Location of property, 1D Commons Drive unit #19 and 20

Tax map parcel 10, lot 1C 19, 20

Existing zone C-3

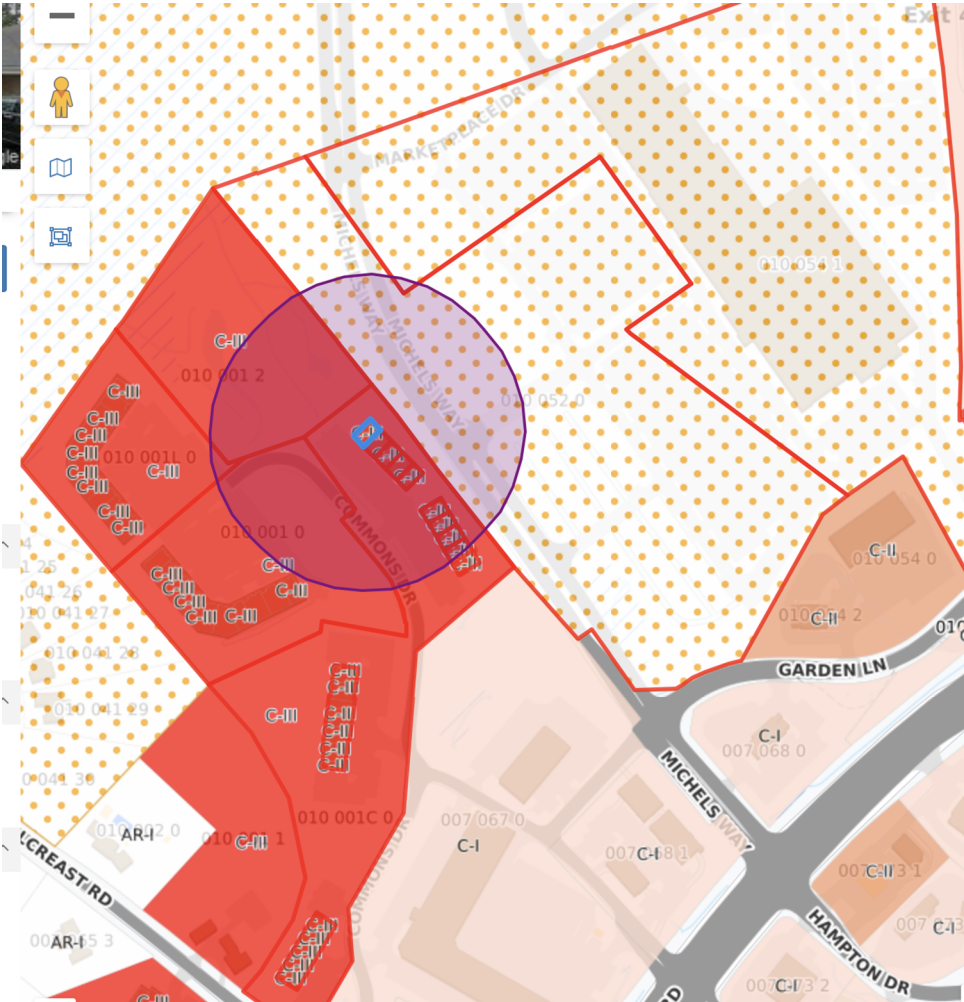


Table 4-1														
Londonderry Zoning Ordinance Use Table														
P = Permitted Use C = Requires Conditional Use Permit S = Requires Special Exception														
	AR-1	R-III	C-I	C-II	C-III	C-IV	MUC	IND-I	IND-II	GB	PUD	AD	POD - 102 ¹	POD - 28 ¹
School, Private					P						P ⁴		P	P
Service establishment			P	P			P	P	P		P ⁴	P	P	P

Aerial view of site location

Front elevation of 1D Commons Drive



The applicant, Diane Rossi operates the Blank Canvas Salon located across the street in the same C III zone. This 20 chair salon has been in operation since 2017.

Recognizing the additional demand, and the desire to create entrepreneurial spaces for new start ups, the applicant is proposing to create 11 individual suites that will be rented by self employed stylists. This novel approach represents a greatly reduced barrier to entry for new self-employed stylists and significant additional business revenue for the local community.



1...The variance will not be contrary to the public interest:

As the attached photos illustrate, the proposed use is similar to that of the surrounding neighborhood. Granting the variance will therefore be in the public interest as well as in keeping with the surrounding business uses.

2...The Spirit of the ordinance is observed:

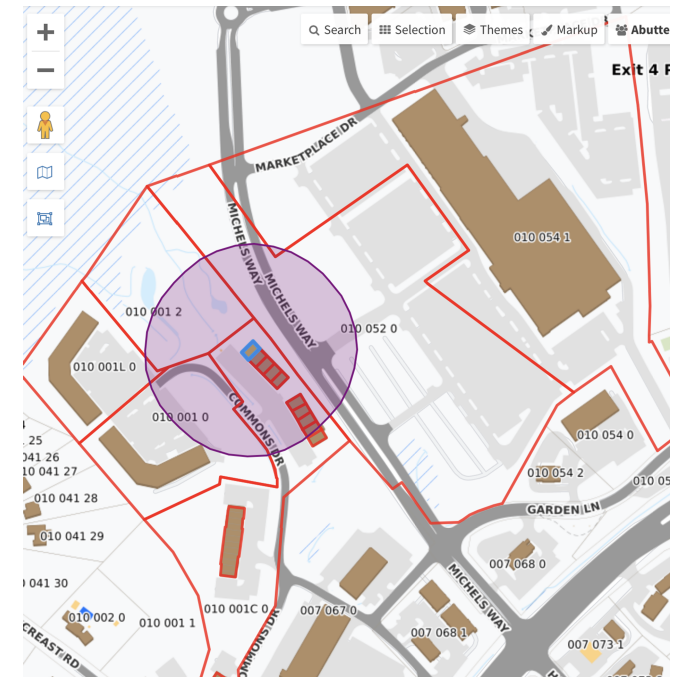
The existing zoning of the property is commercial as are the predominant uses in the area of the site. The general welfare of the community will not be adversely affected by the granting of this variance.

3...substantial justice is done:

The granting of the variance will not result in any harm to abutting businesses. The proposed use is very compatible with other business uses in the area. As a result substantial justice will be done by the granting of the variance.

4...The values of the surrounding properties are not diminished:

The site is zoned commercial as are all of the uses in the general area of the site. If anything, a vacant business unit would have a more negative affect on property values therefore the values of the surrounding business owners will not be adversely affected.



5...Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

(A). For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area.

(i) No fair and substantial relationship exist between the general public purposes of the ordinance provision and the specific application of that provision to the property; and

There is an existing hair salon across the street from the proposed site, operated by the applicant. That location is similarly zoned. As a result, such a use is very much in keeping with the proposed use of the applicant as a hair salon.

(ii) The proposed use is a reasonable one.

The proposed use will not result in any exterior changes to the building nor will it have any negative impact to the surrounding businesses. A similar variance was obtained for the existing Blank Canvas salon located at 1F Commons Drive in June of 2017.

(B)... if the criteria in subparagraph (A) or not established, and unnecessary hardship will be deemed to exist, if and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance and variance is therefore necessary to enable a reasonable use of it.

the proposed use is indistinguishable from other businesses in terms of the exterior façade and customer traffic. Denial of the variance would present a hardship given the nature of similar existing businesses in the neighborhood, as well as prior permitted uses that are very similar in nature to that proposed with this variance application, as illustrated with the photograph below.

1D Commons Drive



Blank Canvas Hair Salon 1F Commons Drive

**Variance granted
by the Zoning
Board in 2017.**






General site location
photographs

December 10, 2021

Attn: Zoning Board

Town of Londonderry

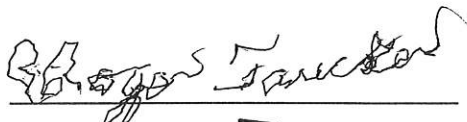
I am in support of the variance for the Accessory Dwelling Unit at 36 Kimball Road.


Diane + Frank SWANSON

NAME


38 Kimball Rd

ADDRESS


Roger Faucher

NAME

39 Kimball Rd

ADDRESS

NAME

ADDRESS

NAME

ADDRESS