

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

MINUTES FROM 11/16/22 MEETING

The meeting was called to order at 7:00 p.m. Members introduced themselves. The following members were present: Jacqueline Benard, Chair; Brendan O'Brien, Clerk; David Armstrong, alternate member; Irene Macarelli, alternate member; and Chris Moore, alternate member. Also, participating was Laura Gandia, Associate Planner; Nick Codner, Chief Building Inspector; and Beth Morrison, Recording Secretary. Chairwoman Benard appointed D. Armstrong, I. Macarelli and C. Moore as full voting members this evening.

I. APPROVAL OF MINUTES –

D. Armstrong made a motion to accept the October 19, 2022, meeting minutes as presented.

The motion was seconded by I. Macarelli.

The motion was granted, 3-0-0.

II. REPORT BY TOWN COUNCIL – None

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

1. CASE NO. 11/16/22-1: Request for a variance from LZO 4.13 GB District Services Table to allow a 30,188 SF the use of an automotive repair facility for electric vehicles within a 46,320 SF building where only 10,000 SF are allowed by conditional use permit, 36 Industrial Drive (Map 28 Lot 18-3, Zoned Gateway Business (GB)), Ballinger Properties, LLC & Five N. Associates (Owners) and Scannell Properties (Applicant)

2. CASE NO. 11/16/22-2: Request for a variance from LZO 4.12 Use Table to allow a vehicle sales establishment in the Gateway Business zone which is otherwise prohibited, 36 Industrial Drive (Map 28 Lot 18-3, Zoned Gateway Business (GB), Ballinger Properties, LLC and Five N Associates (Owners) and Scannell Properties (Applicant)

B. O'Brien made a motion that the cases are not of regional impact.

The motion was seconded by C. Moore.

The motion was granted by, 5-0-0.

IV. PUBLIC HEARING OF CASES

replied that they are conveying the triangular portion of land from lot #4 to lot #1. He reiterated that the variance that was granted last year was the precursor to a subdivision where a town road would have been created from Sheridan Drive to Old Derry Road, as well as six conforming lots. He went on stating that now the applicants wish to create four larger lots, instead of six lots, and the lots will now be non-conforming because of the frontage. He said that by doing this they are eliminating a town road, which the town would have to maintain, eliminating two additional lots and creating more open space for the town. He pointed out that upon approval of this variance application the plan will be subject to Planning Board approval.

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 or threaten the health, safety or welfare of the general public.
- (2) The spirit of the ordinance is observed: because it does not add to congestion in the streets and it will be difficult to see from the street.
- (3) Substantial justice is done: because granting the variance would result in a gain to the general public by the preservation of more open space due to the smaller number of subdivided lots, without any change to the neighborhood.
- (4) Values of surrounding properties are not diminished: because there is no concern or indication that the granting of this variance will diminish the value of surrounding properties.
- (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 over eight acres in size, but lacks sufficient frontage on Sheridan Drive and Old Derry Road. He said that the applicant will suffer a hardship in the inability to use the property to its potential due to this special condition, while the property meets and exceeds all other requirements of the zoning ordinance. He said that the proposed use is reasonable.

Chairwoman Benard asked for questions from the Board. C. Moore commented that it looks like there is an existing driveway where they are proposing the shared driveway. G. Gardocki replied that is correct. C. Moore asked if there is a business operated at the current parcel. G. Gardocki replied that they had a special exception since 1996 to run a landscaping business, but the company has dissolved and their intention is to have themselves and both their married children build homes on the new lots. C. Moore asked if they brought forth the six lot subdivision plan to the Planning Board. G. Gardocki replied that they changed their mind before any submission was made to the Planning Board. D. Armstrong asked if all the lots will be family owned. G. Gardocki replied that all other lots, except lot #4, would be family owned, and they would sell lot #4 after they constructed the new lots. D. Armstrong asked if lot #2 and lot #3 would have a shared driveway. G. Gardocki replied that is correct. B. Gardocki told the Board that the shared driveway for lot #2 and lot #3 is only needed until it breaks out for each one individually. D. Armstrong asked where the proposed driveway is for lot #1. Jason Lopez, P.E. from Keach-Nordstrom explained that they will need to increase the width of the driveway for lot #1 coming off the end of Sheridan Drive. He noted that they have spoken to Brian Johnson, Division Chief of Fire Prevention, and he is in agreement with the shared driveways coming off both Old Derry and Sheridan Drive. He pointed out that the driveways need to be 20-feet for fire code, and need to be paved. He added that the shared driveways need to be 20-feet wide until they split to meet Fire Department requirements. C. Moore asked

the property was built in 1890 and asked if that was correct. G. Gardocki replied that is not correct. C. Moore asked when the property was built. G. Gardocki replied that it was built in 1996.

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 nor affect the health, safety or welfare of the general public.
- (2) The spirit of the ordinance would be observed: because it does not alter the essential character of the neighborhood.
- (3) Substantial justice would be done: because the loss to the applicant outweighs any gain to the general public.
- (4) Values of the surrounding properties would not be diminished: because by not creating a town roadway and instead having driveways, it preserves the essential character of the neighborhood.
- (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 due to its size, the frontage especially given that it is eight acres in size and there are wetlands on the property. The proposed use is a reasonable one.

B. O'Brien made a motion in CASE NO. 09/21/22-3 to grant the request for a variance from LZO 4.2.1.3.B.1 to create a lot (lot #4) with 50.28 feet of frontage where 150 feet are required, 10 Sheridan Drive, Map 16 Lot 42-4, Zoned AR-1, The Gardocki Family Trust, William & Gail Gardocki, Trustees (Owners & Applicants) with the condition of subdivision approval as presented.

C. Moore seconded the motion.

The motion was granted, 5-0-0. The applicant's request for a variance was GRANTED with conditions.

E. CASE NO. 09/21/22-4: Request for a variance from LZO 4.2.1.3.B.1 to create a lot (lot #1) with 50.00 feet of frontage where 150 feet are required, 13 Sheridan Drive, Map 16 Lot 50-3, Zoned AR-1, Thomas & Shawna Gardocki (Owners) and 10 Sheridan Drive, Map 16 Lot 42-4, Zoned AR-1, The Gardocki Family Trust, William & Gail Gardocki, Trustees (Owners & Applicants) – continued from the 10/16/22 meeting

B. O'Brien read the case into the record noting the previous zoning. Brian Germaine, Esq., from Germaine & Blaszk, P.A., 23 Birch Street, Derry, NH, addressed the Board. Gail Gardocki, Bill Gardocki as well as Jason Lopez, P.E. from Keach-Nordstrom, Inc. were in attendance as well. B. Germaine reviewed an attachment, Exhibit 1, with the Board, which is attached hereto. He pointed out that in 1996 the applicants applied for a variance to construct a single-family lot residence on Map 16 Lot 42-4, as they did not have the required 150-feet of frontage. He went on stating that the residence the applicants built in 1997 has always had access off Sheridan Drive. He explained that the proposal is to subdivide Map 16 Lot 42-4 and a small portion of Map 16 Lot 50-3 into four separate lots. He said that the new Map 16 Lot 42-4 will continue to have 50.3-feet of frontage on Sheridan Drive, and Map 16 Lot 42-1 will have 50-feet of frontage on Sheridan Drive and a driveway easement overlapping Map 16 Lot 42-4. Chairwoman Benard asked for B. Germaine to stick to just the lot/application in question, as this is

Associate Planner Gandia reminded the Board that there will be a lot line adjustment in this case with Map 16 Lot 50-3 and if the Board has any concern regarding the shared driveway for this case they should include these in the conditions. She stated that the condition may read as follows: subject to a driveway maintenance agreement outlining the expenses and maintenance associated with the care and upkeep of the shared driveway, which should be recorded at the time of the subdivision approval.

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 nor affect the health, safety or welfare of the general public.
- (2) The spirit of the ordinance would be observed: because it does not alter the essential character of the neighborhood.
- (3) Substantial justice would be done: because the loss to the applicant outweighs any gain to the general public.
- (4) Values of the surrounding properties would not be diminished: because by not creating a town roadway and instead having driveways, it preserves the essential character of the neighborhood.
- (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 due to its size, the frontage especially given that it is eight acres in size and there are wetlands on the property. The proposed use is a reasonable one.

B. O'Brien made a motion in CASE NO. 09/21/22-4 to grant the request for a variance from LZO 4.2.1.3.B.1 to create a lot (lot #1) with 50.00 feet of frontage where 150 feet are required, 13 Sheridan Drive, Map 16 Lot 50-3, Zoned AR-1, Thomas & Shawna Gardocki (Owners) and 10 Sheridan Drive, Map 16 Lot 42-4, Zoned AR-1, The Gardocki Family Trust, William & Gail Gardocki, Trustees (Owners & Applicants) with the following condition: subject to a lot line adjustment with Map 16 Lot 50-3; subject to a driveway maintenance agreement outlining the expenses and maintenance associated with the care and upkeep of the shared driveway, which should be recorded at the time of the subdivision approval.

I. Macarelli seconded the motion.

The motion was granted, 5-0-0. The applicant's request for a variance was GRANTED with conditions.

F. CASE NO. 09/21/22-5: Request for a variance from LZO 4.2.1.3.B.1 to create a lot (lot #2) with 26.04 feet of frontage where 150 feet are required, 10 Sheridan Drive, Map 16 Lot 42-4, Zoned AR-1, The Gardocki Family Trust, William & Gail Gardocki, Trustees (Owners & Applicants) – continued from the 10/16/22 meeting

B. O'Brien read the case into the record noting the previous zoning. Brian Germaine, Esq., from Germaine & Blaszk, P.A., 23 Birch Street, Derry, NH, addressed the Board. Gail Gardocki, Bill Gardocki as well as Jason Lopez, P.E. from Keach-Nordstrom, Inc. were in attendance as well. B. Germaine reviewed an attachment, Exhibit 1, with the Board, which is attached hereto. He pointed out that in 1996 the applicants applied for a variance to construct a single-family lot residence on Map 16 Lot 42-4, as they did not have the required 150-feet of frontage. He went on stating that the residence the

Chairwoman Benard asked for public input. B. O'Brien noted that the six letters, Exhibit B, that were read into the record for Case. No. 09/21/22-3 are applicable to this case.

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 nor affect the health, safety or welfare of the general public.
- (2) The spirit of the ordinance would be observed: because it does not alter the essential character of the neighborhood.
- (3) Substantial justice would be done: because the loss to the applicant outweighs any gain to the general public.
- (4) Values of the surrounding properties would not be diminished: because by not creating a town roadway and instead having driveways, it preserves the essential character of the neighborhood.
- (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 due to its size, the frontage especially given that it is eight acres in size and there are wetlands on the property. The proposed use is a reasonable one.

B. O'Brien made a motion in CASE NO. 09/21/22-5 to grant the request for a variance from LZO 4.2.1.3.B.1 to create a lot (lot #2) with 26.04 feet of frontage where 150 feet are required, 10 Sheridan Drive, Map 16 Lot 42-4, Zoned AR-1, The Gardocki Family Trust, William & Gail Gardocki, Trustees (Owners & Applicants) with the following conditions: with subdivision approval as presented and subject to a driveway maintenance agreement outlining the expenses and maintenance associated with the care and upkeep of the shared driveway, which should be recorded at the time of the subdivision approval.

D. Armstrong seconded the motion.

The motion was granted, 5-0-0. The applicant's request for a variance was GRANTED with conditions.

G. CASE NO. 09/21/22-6: Request for a variance from LZO 4.2.1.3.B.1 to create a lot (lot #3) with 26.04 feet of frontage where 150 feet are required, 10 Sheridan Drive, Map 16 Lot 42-4, Zoned AR-1, The Gardocki Family Trust, William & Gail Gardocki, Trustees (Owners & Applicants) – continued from the 10/16/22 meeting

B. O'Brien read the case into the record noting the previous zoning. Brian Germaine, Esq., from Germaine & Blaszk, P.A., 23 Birch Street, Derry, NH, addressed the Board. Gail Gardocki, Bill Gardocki as well as Jason Lopez, P.E. from Keach-Nordstrom, Inc. were in attendance as well. B. Germaine reviewed an attachment, Exhibit 1, with the Board, which is attached hereto. He pointed out that in 1996 the applicants applied for a variance to construct a single-family lot residence on Map 16 Lot 42-4, as they did not have the required 150-feet of frontage. He went on stating that the residence the applicants built in 1997 has always had access off Sheridan Drive. He explained that the proposal is to subdivide Map 16 Lot 42-4 and a small portion of Map 16 Lot 50-3 into four separate lots. He said that

The Board closed public input and began deliberations:

- (1) The variance would not be contrary to the public interest: because it does not alter the essential character of the neighborhood nor affect the health, safety or welfare of the general public.
- (2) The spirit of the ordinance would be observed: because it does not alter the essential character of the neighborhood.
- (3) Substantial justice would be done: because the loss to the applicant outweighs any gain to the general public.
- (4) Values of the surrounding properties would not be diminished: because by not creating a town roadway and instead having driveways, it preserves the essential character of the neighborhood.
- (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 due to its size, the frontage especially given that it is eight acres in size and there are wetlands on the property. The proposed use is a reasonable one.

D. Armstrong made a motion in CASE NO. 09/21/22-6 to grant the request for a variance from LZO 4.2.1.3.B.1 to create a lot (lot #3) with 26.04 feet of frontage where 150 feet are required, 10 Sheridan Drive, Map 16 Lot 42-4, Zoned AR-1, The Gardocki Family Trust, William & Gail Gardocki, Trustees (Owners & Applicants) with the following conditions: with subdivision approval as presented and subject to a driveway maintenance agreement outlining the expenses and maintenance associated with the care and upkeep of the shared driveway, which should be recorded at the time of the subdivision approval.

C. Moore seconded the motion.

The motion was granted, 5-0-0. The applicant's request for a variance was GRANTED with conditions

H. CASE NO. 09/21/22-8: Request for a variance from LZO 4.12 Use Table to allow self-storage facility in the C-I zone which is otherwise prohibited, 77 Nashua Road, Map 7 Lot 129, Zoned C-I, CM Londonderry, LLC (Owner) and 201 Highland, LLC (Applicant) – continued from the 10/16/22 meeting

B. O'Brien read the case into the record noting there is no previous zoning. John Arnold, Esq. from Orr & Rena, P.A., 45 South Main Street, P.O. Box 3550, Concord, NH, addressed the Board and noted that Mark Murphy, one of the and Melissa Murphy, owners of 603 Storage and Nick Loring, P.E. from Benchmark Engineering are in attendance as well. Associate Planner Gandia passed out paper copies, Exhibit 3, of the application to the Board, which is attached hereto. J. Arnold reviewed the site plan on the screen with the Board noting that they are proposing to allow self-storage in the C-I District. He said that there is an existing house that has been vacant for many years on one of the properties. He reviewed where the wetlands are on the property, noting that Indian Brook runs down the middle of one of the parcels. He commented that they would be able to comply with the 50-foot vegetative buffer as they abut the residential property. He mentioned that there is more like 400 feet that actually between what they are proposing and the residential property. He explained that this is not like any other self-storage facilities,

Chairwoman Benard asked if they would allow car storage. M. Murphy replied they do allow the storage of vehicles just household items. He added that they have a comprehensive list of what is not allowed in their contract. He said that they do pay quite a bit of attention to this and have evicted people. C. Moore asked about outdoor storage. M. Murphy replied that they are not looking to do this here and would entertain a restriction on this. B. O'Brien asked how close the back building is to the current residences that abut the property. Nick Loring replied it was approximately 130 feet from the property line to the abutting residence. C. Moore asked if the only access would be the single entrance of Route 102. M. Murphy replied that is what they are proposing right now. Chairwoman Benard asked for clarification on the trip generation numbers in the traffic report. J. Arnold replied that some might carry over to the next hour or so.

Chairwoman Benard asked for public input. B. O'Brien read letters in opposition, Exhibit 4, which is attached hereto.

Monique Robert, 30 B Mercury Drive, addressed the Board in opposition. M. Robert commented that this is her first home and thought this proposed development will take the Woodland out of Woodland Village. She said that she looks out and sees wildlife, such as deer, foxes and owls in the wetland area. She stated that this land being undeveloped is what draws her here. She expressed her opinion that if the storage buildings are four stories, the residents at Woodland Village will look directly into them. She said that the children in the development play in the wooded area. She added that she believes protecting the watershed in the area is important. J. Arnold replied that in his opinion this property will not remain undeveloped whether this variance is approved or not. He remarked that the benefit to this type of use is that the development can be segregated with a large distance between the condominiums and their development. C. Moore asked what the distance to the closest condominiums are from the southernmost building. J. Arnold replied that the building is approximately 270-feet from the condominiums.

Janice Allen, 14 Constitution Drive, addressed the Board in opposition. J. Allen said that her condominium faces their property and on the third floor, she pays a view tax, which will now be looking into their building. She commented that she can hit the vacant house with a bow and arrow and it will be too close. She asked how many trees would be cut down. J. Arnold replied that Indian Brook bisects the property and all the development is below the brook, so the distance would be approximately 400 feet. He added that zoning requires only a 50-foot vegetated buffer. M. Murphy stated that they are not proposing to cut down any trees on both sides of the streams, which would help create a substantial buffer. J. Allen asked about sewer. J. Arnold replied that they can connect to sewer, but noted that they do not have a big demand for municipal services. Chairwoman Benard asked if the employees and public would use the restroom. M. Murphy explained that they would have a public restroom and the water bill would not be substantial. Chairwoman Benard asked if they would add more employees over time. M. Murphy replied that he would not. Chairwoman Benard asked if employees would be there overnight. M. Murphy replied that no one would be there overnight, even customers. He added the hours of operation vary location to location and the character of the neighborhood.

Marlene Charette, 1A Constitution Drive, addressed the Board in opposition. M. Charette remarked that she has lived there for twenty years and has always walked her dogs in the undeveloped land. She said that there is so much wildlife there and she does not want to see that destroyed.

- (1) The variance would not be contrary to the public interest: because it does not alter the essential character of the neighborhood.
- (2) The spirit of the ordinance would be observed: because the use conforms to the general district and 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 general public.
- (4) Values of the surrounding properties would not be diminished: because the development of a self-storage facility does would not diminish the surrounding property values.
- (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 a substantial wetland that runs through the property as well as the buffers associated with them. The proposed use is a reasonable one.

B. O'Brien made a motion in CASE NO. 09/21/22-8 to grant the request for a variance from LZO 4.12 Use Table to allow self-storage facility in the C-I zone which is otherwise prohibited, 77 Nashua Road, Map 7 Lot 129, Zoned C-I, CM Londonderry, LLC (Owner) and 201 Highland, LLC (Applicant) with the following conditions: No vehicles to be rented, no outside storage, with hours of operation Monday through Saturday 6 a.m. to 10 p.m. and Sunday 8 a.m. to 6 p.m., and subject to the lot merger of the two parcels.

C. Moore seconded the motion.

The motion was granted, 3-2-0. The applicant's request for a variance was GRANTED with conditions.

(The Board took a 10-minute break at this time 10:07 p.m. and resumed at 10:17 p.m.)

I. CASE NO. 09/21/22-9: Request for a variance from LZO 4.12 Use Table to allow self-storage facility in the C-I zone which is otherwise prohibited, 83 Nashua Road, Map 7 Lot 130, Zoned C-I, CM Londonderry, LLC (Owner) and 201 Highland, LLC (Applicant) – continued from the 10/16/22 meeting

B. O'Brien read the case into the record noting there is no previous zoning. John Arnold, Esq. from Orr & Rena, P.A., 45 South Main Street, P.O. Box 3550, Concord, NH, addressed the Board and noted that Mark Murphy, one of the and Melissa Murphy, owners of 603 Storage and Nick Loring, P.E. from Benchmark Engineering are in attendance as well. Associate Planner Gandia passed out paper copies, Exhibit 3, of the application to the Board, which is attached hereto. J. Arnold reviewed the site plan on the screen with the Board noting that they are proposing to allow self-storage in the C-I District. He said that there is an existing house that has been vacant for many years on one of the properties. He reviewed where the wetlands are on the property, noting that Indian Brook runs down the middle of one of the parcels. He commented that they would be able to comply with the 50-foot vegetative buffer as they abut the residential property. He mentioned that there is more like 400 feet that actually between what they are proposing and the residential property. He explained that this is not like any other self-storage facilities, as it is modern, multistory, architecturally designed facility. He reviewed the proposed renderings with the Board. He noted that it has roof overhangs to make it look more commercial and is similar to Bluebird

- (4) Values of the surrounding properties would not be diminished: because the development of a self-storage facility does would not diminish the surrounding property values.
- (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 a substantial wetland that runs through the property as well as the buffers associated with them. The proposed use is a reasonable one.

B. O'Brien made a motion in CASE NO. 09/21/22-9 to grant the request for a variance from LZO 4.12 Use Table to allow self-storage facility in the C-I zone which is otherwise prohibited, 83 Nashua Road, Map 7 Lot 130, Zoned C-I, CM Londonderry, LLC (Owner) and 201 Highland, LLC (Applicant) with the following conditions: No vehicles to be rented, no outside storage, with hours of operation Monday through Saturday 6 a.m. to 10 p.m. and Sunday 8 a.m. to 6 p.m., and subject the lot merger with Map 7 Lot 129.

C. Moore seconded the motion.

The motion was granted, 3-2-0. The applicant's request for a variance was GRANTED with CONDITIONS.

J. CASE NO. 11/16/22-1: Request for a variance from LZO 4.13 GB District Services Table to allow a 30,188 SF the use of an automotive repair facility for electric vehicles within a 46,320 SF building where only 10,000 SF are allowed by conditional use permit, 36 Industrial Drive (Map 28 Lot 18-3, Zoned Gateway Business (GB)), Ballinger Properties, LLC & Five N. Associates (Owners) and Scannell Properties (Applicant)

B. O'Brien read the case into the record noting the previous zoning. John Levenstein, Esq., from 47 Constitution Drive, Bedford, NH, and Leo Leighton, representative for Scannell Properties, addressed the Board. N. Codner asked if the applicant wanted to start with the next variance as he thought it would make more sense. J. Levenstein pointed out that the sales are accessory to the repairs. L. Leighton reviewed the parcel on the screen with the Board. He also had a presentation, Exhibit 5, that he went over with the Board. He remarked that they have a tenant right now, but they would like to remain anonymous at this point, noting they service electric vehicles. He added that the proposed use would be to service and maintenance for customers vehicles, but there is small portion that is a showroom and sales component. He reviewed the square footage of the proposed building. He mentioned that this is an electric car manufacturer, so they don't use any gasoline, so it is an environmentally friendly use. He said that most of the work to be done to these vehicles would be software updates, routine service, minor body work and every once in a while, battery replacement. He reviewed the conceptual rendering with the Board. He pointed out that they have 335 vehicle parking spaces for a variety of different uses such as employee parking, customer parking, overflow parking from the service and storage for any leased or purchased vehicle. He commented that the vehicles are delivered to the site, parked there and the customer would come to the site and pick up the car. J. Levenstein asked if this would be the first kind of facility in New Hampshire. L. Leighton replied that is correct.

He then read the criteria for granting the variance:

- (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 general public.
- (4) Values of the surrounding properties would not be diminished: because the district serves a variety of industrial and commercial development.
- (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 in the Gateway District, has wetlands on site, as well as a slope drainage and drainage easement. The proposed use is a reasonable one.

B. O'Brien made a motion CASE NO. 11/16/22-1 to the request for a variance from LZO 4.13 GB District Services Table to allow a 30,188 SF the use of an automotive repair facility for electric vehicles within a 46,320 SF building where only 10,000 SF are allowed by conditional use permit, 36 Industrial Drive (Map 28 Lot 18-3, Zoned Gateway Business (GB)), Ballinger Properties, LLC & Five N. Associates (Owners) and Scannell Properties (Applicant) with the following condition that no combustible engines be serviced at this location.

C. Moore seconded the motion.

The motion was granted, 5-0-0. The applicant's request for a variance was GRANTED with CONDITIONS.

Associate Planner Gandia pointed out that they had discussed 32,000 SF this evening, but they were legally noticed and approved for 30,188 SF. L. Leighton discussed this and decided that they would take the 30,188 SF at this time and might come back if this would not work.

K. CASE NO. 11/16/22-2: Request for a variance from LZO 4.12 Use Table to allow a vehicle sales establishment in the Gateway Business zone which is otherwise prohibited, 36 Industrial Drive (Map 28 Lot 18-3, Zoned Gateway Business (GB)), Ballinger Properties, LLC and Five N Associates (Owners) and Scannell Properties (Applicant)

B. O'Brien read the case into the record noting the previous zoning. John Levenstein, Esq., from 47 Constitution Drive, Bedford, NH, and Leo Leighton, representative for Scannell Properties, addressed the Board. N. Codner asked if the applicant wanted to start with the next variance as he thought it would make more sense. J. Levenstein pointed out that the sales are accessory to the repairs. L. Leighton reviewed the parcel on the screen with the Board. He also had a presentation, Exhibit 5, that he went over with the Board. He remarked that they have a tenant right now, but they would like to remain anonymous at this point, noting they service electric vehicles. He added that the proposed use would be to service and maintenance for customers vehicles, but there is small portion that is a showroom and sales component. He reviewed the square footage of the proposed building. He mentioned that this is an electric car manufacturer, so they don't use any gasoline, so it is an environmentally friendly use. He said that most of the work to be done to these vehicles would be software updates, routine service, minor body work and every once in a while, battery replacement. He reviewed the conceptual rendering with the Board. He pointed out that they have 335 vehicle parking spaces for a variety of different uses such

(Owners) and Scannell Properties (Applicant) with the condition there are no sales of combustible vehicles on the property

D. Armstrong seconded the motion.

The motion was granted, 5-0-0. The applicant's request for a variance was GRANTED.

V. Communication and Miscellaneous – None

VI. Other Business – None

Adjournment:


C. Moore made a motion to adjourn at 11:34 p.m.

I. Macarelli seconded the motion.

The motion was granted, 5-0-0. The meeting adjourned at 11:34 p.m.

RESPECTFULLY SUBMITTED,

CLERK



TYPED AND TRANSCRIBED BY Beth Morrison, Recording Secretary.

APPROVED (X) WITH A MOTION MADE BY C. Moore, SECONDED BY I. Macarelli, 3 - 0 - 2.