

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

**MINUTES FROM 6/21/17 MEETING**

The meeting was called to order at 7:00 p.m. Members introduced themselves. The following members were present: Neil Dunn, Chair; Jacqueline Benard, Vice Chair; Jim Tirabassi, Clerk; Suzanne Brunelle, member; Bill Berardino, member; Allison Deptula, alternate member; and Brendan O'Brien, alternate member. Also, in attendance were Richard Canuel, Senior Building Inspector and Beth Morrison, Recording Secretary. Chairman Dunn reviewed the hearing procedures.

I. APPROVAL OF MINUTES

J. Tirabassi made a motion to accept the May 2017 minutes as presented.

Motion was seconded by S. Brunelle.

Motion was granted, 5-0-0.

II. REPORT BY TOWN COUNCIL – N/A

III. PUBLIC HEARING OF CASES

**A. CASE NO. 6/21/2017-1: Request for a variance from LZO 2.2 Table of Uses to allow a service establishment (hair salon) in the C-III district that is otherwise prohibited, 1F Commons Drive - Unit 38, Map 010 Lot 001, Zoned C-III, New Harbor Properties, Inc. (Owner & Applicant)**

J. Tirabassi read the case into the record noting the previous zoning cases. Jack Szemplinski, stock holder and principal owner of Harbor Properties, 1F Commons Drive, Londonderry, NH, presented for the applicant. J. Szemplinski explained that he is looking to rent space to a hair salon that is presently operating on Rockingham Road in Londonderry. He noted that the C-III zone does not allow service establishments. He stated that many years ago there used to be a hair salon, Jamie's Salon, in this space. He explained that other businesses in the area provide services to the public, such as his company, which provides engineering services. He explained that 3000 SF will be used for the hair salon and that no exterior changes will be made.

He then reviewed the five criteria for the granting of the variance as follows:

- (1) The granting of the variance is not contrary to the public interest: he noted that the hair salon is presently located in Londonderry and provides services to local residents adding that other services, such as dentist, doctor offices and daycare, exist in the current buildings of the complex.
- (2) The spirit of the ordinance is observed: he explained that the current building is occupied by medical, dental and engineering businesses that provide services to the general public noting that the hair salon would provide hair styling and hair dressing schooling. He added that the properties surrounded by Woodmont Commons and Market Basket are also mixed commercial and residential use.
- (3) Substantial justice is done: he stated that the local business will be able to stay in town and provide services to the local residents adding that the property is already commercially zoned. He explained that there is no gain to the public if the variance is denied but significant loss to the applicant.
- (4) Values of surrounding properties are not diminished: he added that granting the variance will have no impact on surrounding 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: he explained that the C-III zoning was established as a buffer zone between the commercial and residential districts. He noted that in this area the surrounding land is part of the Woodmont Commons development, a mix of commercial and residential uses, which will include in all likelihood hairdressers. He noted that the proposed use is a reasonable one because the exterior appearance of the unit will be identical to what already exists at Londonderry Commons and there have been other hair salons in this complex in the past. He concluded his presentation.

Chairman Dunn asked for questions from the Board. N. Dunn asked if this rental space will be in the building where Benchmark Engineering is. J. Szemplinski stated it would be. N. Dunn asked where the former hair salon used to be. J. Szemplinski stated it was in building C. B. Berardino asked a question regarding the spirit of the ordinance.

Stephanie Lawrence, hair salon owner, 46A Morgan Circle, Goffstown, NH explained to the Board that the business in question is not a hair salon school, instead they have apprentices, who are employees, that graduate from school and require extra training. B. Berardino asked how many chairs will be in the salon. S. Lawrence answered there will be 15, to allow for space for the apprentices and wedding parties. B. Berardino asked how many sinks there would be. S. Lawrence stated there will be six. J. Benard asked how long someone is an apprentice. S. Lawrence stated that it is based upon skill level, but could be between six months and two years. S. Brunelle asked if the building was part of a condominium. J. Szemplinski stated that it is not. A. Deptula asked if there would be any changes

made to the building such as it exists currently. J. Szemplinski stated that he thought about adding some ventilation, but there will be no changes to the exterior. N. Dunn asked R. Canuel if any kind of special air flow or licensing that the Town requires. R. Canuel stated that the salon will need to be licensed by the state and because this is a change of use, a tenant fit up permit from his office is required which will allow him to inspect the unit and make sure it complies with code standards. He noted that one of the code standards would be for proper ventilation. N. Dunn asked about the parking requirements. R. Canuel stated that the parking requirements for the ordinance are the same. N. Dunn asked about permitted only use language in the ordinance. R. Canuel stated that the way the ordinance is written, it is a permissive ordinance, and only allows certain land uses in a particular zone. He added if it is not listed as a permitted use, it is considered non-permitted. S. Brunelle asked for clarification regarding item #5 – the hardship criteria. J. Szemplinski pointed to Woodmont Commons which consists of mixed uses.

Chairman Dunn asked for public input.

Resident, Stephanie Lawrence, 46A Morgan Circle, Goffstown, NH addressed the Board that she was in favor of granting the variance.

Member J. Benard asked the applicant if he would like to add more to what he wrote down as his hardship answer. J. Szemplinski stated that because there is no use listed for this particular use, the hair salon is not allowed in any zone and is a hardship to the community. He added that the hardship is there is no zone for this business currently.

The Board closed public input and began its deliberations as follows:

- (1) The granting of the variance is not contrary to the public interest because there is no threat to the health, safety or welfare of the public nor is the essential character of the neighborhood altered.
- (2) The spirit of the ordinance is observed because the essential character of the neighborhood is not altered as it is a mixed use site already.
- (3) Substantial justice is done because it is a needed service for residents with ample parking and allows for full use.
- (4) Values of surrounding properties are not diminished because there is no exterior change necessary and the use is not detectable from the outside.
- (5) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because: the Board discussed the hardship criteria noting that hair salons are categorized in the zoning ordinance as a service and are allowed in other zoning areas, and the blurring of lines between the operations of a dentist/attorney and hair salon. The Board noted that the C-III zoning district is ambiguous to a

degree which causes a hardship in renting this space. The Board concluded that there was not a fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property because of the uniqueness of the property given its location surrounded by Woodmont Commons, a Planned Unit Development, where service establishments are permitted, and by a C-II zone where service establishments are also permitted. The Board stated the use was reasonable in this particular location citing the previous answer.

**J. Benard made a motion in CASE NO. 6/21/2017-1 to approve the request for a variance from LZO 2.2 Table of Uses to allow a service establishment (hair salon) in the C-III district that is otherwise prohibited, 1F Commons Drive - Unit 38, Map 010 Lot 001, Zoned C-III, New Harbor Properites, Inc. (Owner & Applicant)**

**B. Berardino seconded the motion.**

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

**B. CASE NO. 6/21/2017-2: Request for variances from LZO 2.6.3 to encroach 25 feet into the 50 feet Conservation Overlay District buffer to allow the Nevins Retirement Association to continue to maintain the existing lawn behind 22 units, 7-43 Morrison Drive, 2, 4, 5 Harriet Court (Map 7 Lots 122C 30-51), The Nevins Retirement Cooperative Association (Owner & Applicant)**

J. Tirabassi read the case into the record noting no previous zoning action on the property. Attorney, Robert Shepard, Smith-Weiss Shepard, 47 Factory Street, Nashua, NH and Anthony Velante, President of the Board of Directors of Nevins Retirement Association, presented for the applicant. R. Shepard explained that the community is a cooperative not a condominium association. He noted that there are 128 home owners in this community and that the cooperative owns the land, road, clubhouse, etc. He explained his request was to reduce the 50 foot buffer zone in the Conservation Overlay district with no impact to the wetlands. He noted that the developer turned over the ownership of the project about 3-4 years ago and from that time it has been operated by the Board and members of the cooperative. He added at the time of the turnover, the members of the cooperative had no idea there were any THE Conservation commission found encroachment issues in the buffer zone along with other issues that have since been resolved. He reviewed the units where the encroachment is an issue, specifically citing units 51, 50, 48, 47, 39, 38, 37, 35, 32, 31 and 30, noting the foundations are either right on the buffer or within inches. He stated that the home owners and the Board members had nothing to do with the design of the development. He concluded that he is here this evening because of a poor plan that allowed houses to be built right on the buffer and is asking that the home owners be allowed to have modest backyards. He then addressed the five criteria for granting a variance as follows:

- (1) The variance will not be contrary to the public interest: he stated that a reduction of the wetland buffer would not violate the basic zoning objectives because it would not alter the essential character of the neighborhood or threaten the health, safety or general welfare of the public. He stated that the lawns were initially seeded by the developer and have been in place for many years, so there would be no change in the character.
- (2) The spirit of the ordinance is observed: he noted the applicant looking for a reduction of the buffer, not the elimination of the buffer. He noted that the objective of the Conservation Overlay district is for the preservation of water, resources and to promote the general health, safety and welfare of the community. He stated that granting a variance would not have a negative impact on that purpose.
- (3) Substantial justice is done: he noted that the home owners had nothing to do with the encroachment and substantial justice will be done by allowing the home owners to have reasonable backyards. He noted that the plans were signed off by the Town and it was never pointed out to the home owners that there was a problem until December of 2015.
- (4) The values of surrounding properties are not diminished: he stated that by allowing the home owners to have modest backyards and grass there would be no diminution in value but would enhance the value of the homes.
- (3) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: he noted that the variance is needed for the applicant's continued use of this property. He noted that the location of the buffer severely restricts the use of the property. He pointed out that the property is unique in the sense that people would normally expect to have a backyard. He added that granting this variance does not frustrate the purpose of the ordinance as the cooperative will continue to respect the Conservation Overlay district and restrictions remaining on the wetlands in the buffer area. He stated that the proposed use is reasonable given as the special condition of the existing 50 foot buffer which is right up against the home and the property has had existing lawns for many years since the Town approved this development. He concluded his presentation and welcomed any questions.

N. Dunn asked the Board for input. S. Brunelle asked if the Board had reviewed a letter submitted by the Conservation Commission. J. Tirabassi read the letter into record from the Conservation Commission as follows: "We understand that the current residents along Morrison Drive were not aware until about 2 years ago that their backyards were subject to restrictions due to their location within the Conservation Overlay district buffer. The developer's decision to place these homes so close the buffer's boundaries is certainly unfortunate. Even though it was within regulations to do so, it now becomes evident that this has created unpleasant circumstances for these residents. However, complying with the buffer restrictions will not cause these properties to lose their lawns. The current lawns are allowable within the buffer provided no chemical fertilizer, pest or weed control is used in the buffer area. Lime and potash may be applied. The landscaper for the Nevins has been observing these restrictions for 2 seasons now with no apparent decline in the appearance of the lawns per the association president. It is difficult to envision how the buffer requirements severely restrict the use of land in question. The request to encroach 25 feet into the buffer to enable fertilization and pest control is not justified. The benefit does not outweigh the risk to the wetlands. Potential lower lawn quality does not qualify as a hardship, protecting the water is a higher priority. Turf does not function well as a buffer planting, so the full 50 feet is necessary in order to protect the water quality. We should not



trade lawn quality for water quality. Certainly, recent the drought condition has brought to the forefront of the importance of protecting our water sources. Residents have expressed concerns that the condo rules require them to maintain their lawns. It would be more appropriate to mend their rules as those rules were established by the same developer who created the issue. It is a shame that these residents are in this situation, but it is the consensus of the Conservation Commission to oppose granting this variance. Approval of this variance would be a slippery slope and there is potential for the same situation to be repeated at other developments currently under consideration. Signed Marge Badois."

N. Dunn pointed out on the original plans there is a note 5: there shall be no further alteration of wetlands for lot development, private slopes, buildings or other construction. N. Dunn added there were notes from the Planning Board about the wetlands and buffer zones that were well documented. N. Dunn commented on the responsibility on the developer and the due diligence of the home owners. R. Shepard stated he was familiar with note 5 and stated that after the note was approved by the Planning Board, these lawns were put in by the developer who disregarded the note which is not the fault of the home owners. R. Shepard stated in his opinion buyers do not look that closely at the plans when purchasing a home. N. Dunn asked R. Canuel if when this development was being built were the foundation plot plans surveyed. R. Canuel stated there is a difference in the location of structures in relationship to the buffer and as opposed to the lawns. He noted that there were a couple issues with some of the structures that were encroaching into the buffer that were addressed during development. He added that in this particular case it is not the structure that is being talked about. N. Dunn asked specifically if the foundations were verified. R. Canuel stated for clarification in reference to the plan that was handed to the Board by R. Shepard that the walking trail does not exist, as the Nevins association had approached the Planning Board to exclude the walking trail. J. Benard asked how old the neighborhood was. R. Shepard stated it was started in 2004 and turned over to the cooperative approximately 3-4 years ago. J. Benard asked what stage the back part was of the development. Anthony Velante stated that Morrison Drive was one of the last sections to be built and there were four phases of the development with this being phase 4. J. Benard asked R. Canuel if this would have been picked up during the different stages of development. R. Canuel stated that as far as site works goes, it would be his assumption that it would have been part of the Town's third party review team. J. Benard asked if the developer had been cited for any violations. R. Canuel stated there were none. J. Tirabassi asked when the project was turned over from the developer to the home owners who negotiated the deal. R. Shepard stated he was the attorney at the time and an engineer was hired to do an inspection of the systems. He noted that he did not specifically ask the engineer to look for an encroachment, but inspections of the drainage system, roads, lighting, etc. were done. S. Brunelle asked when the units were transferred out was any type of note on there with regard to the buffer. R. Shepard stated there was not. S. Brunelle stated that from the Conservation Commission letter it states that the current lawns are allowable within the buffer provided no chemical, fertilizer, pest or weed control are used in the buffer area, and she asked if that made sense to the applicant. R. Shepard stated that the lawns cannot be treated but for instance a home owner would not be able to build a deck. S. Brunelle asked how 25 feet was determined. R. Shepard stated they looked at how far most lawns went back in this particular location. A. Velante added that he was present at the December 2015 meeting with the Conservation Commission where the Conservation Commission suggested filing for a variance. J. Benard asked if all homeowners who were affected were seeking a variance to encroach into the buffer zone and R. Shepard stated that everyone was.

Chairman Dunn asked for public input.

Phillip Marineau, 41 Morrison Drive, addressed the Board in favor of the application noting a concern about the letter that was received from the Conservation Commission about fertilizing the lawns. He noted that the whole site has been deemed a hazardous waste site and is continuously being monitored by the Environmental Protection Agency ("EPA"). He stated that all the monitoring wells are in the buffer or wetlands. He added that there is an EPA ruling that no water can be drawn from the wetlands. He concluded that he was taken aback by the letter from the Conservation Commission stating that the home owners putting fertilizer on 3-4 times a year is going to contaminate the land more than it already is.

Peter Woodbury, 35 Morrison Drive, addressed the Board in favor of the application stating that if you were to look at Google Maps it looked like the developer ran a bulldozer about 25 feet down behind all the houses, leveled the trees and stripped all the topsoil before he built the houses. He stated that when he bought his home, he was looking out at the land with the developer who told him that they could landscape in the back for an additional cost. He added that he was not aware of any additional restrictions. He noted on that plan you can see where the 50 foot buffer is drawn. He stated that potash will not work for fertilizer.

Bill Melone, 43 Morrison Drive, addressed the Board in favor of the application stating that he appreciated everything the Conservation Commission did for the Town of Londonderry, but questioned its continued involvement. He noted that he took the word of the developer that there would be a backyard that he could use. He stated that if the variance is not allowed, he felt it would detract from the value of the homes that are affected.

Steve Feinberg, Nine Morrison Drive, addressed the Board in favor of the application noting his home is not affected by this application. He purchased his home in January of 2016 and at the time there was a large tree line and essentially no room to put any lawn. He stated that he had petitioned the Conservation Commission last year and he was allowed to remove a number of trees that opened up the lawn a little bit. He explained that he learned that his deck and his dining room are in the buffer zone. He stated that his backyard is all poison ivy and he has been told he cannot use any traditional remedies to get rid of the poison ivy, and therefore, he cannot use his backyard

Carl F. Tomanelli, Two Harriet Court, addressed the Board in favor of the application stating that his expectation was to live in a nice community and never expected there was a conservation problem. He stated that he wished it was addressed when he purchased the home. He explained that the development was built in stages and in his opinion he cannot understand with all the different stages this problem is only coming to the surface in the last few years.

N. Dunn asked R. Canuel for clarification with the timing of the removal of the walking trail and if the time coincided with the Conservation Commission's meeting. R. Canuel did not believe that was the case, stated that he cannot speak for the Conservation Commission, and suggested that he Board request for the Conservation Commission to provide those details. J. Benard asked for clarification of note 1-13. R. Canuel stated those notes came from the site plan. J. Benard asked if those notes were required conditions by the Planning Board, and R. Canuel stated yes.

Chairman Dunn noted that there were people who would like to re-approach the Board at this time.

Peter Woodbury, 35 Morrison Drive, addressed the Board again and noted that he was on the Grounds Committee, the liaison between the Conservation Commission and The Nevins, and stated that anytime there was a question about anything in the buffer, the Committee would email the Conservation Commission with pictures. He added if the pictures would not be good enough, the Conservation Commission would come to The Nevins and address the issue in person. He described a poison ivy situation where the Conservation Commission visited the Nevins at least 2-3 times with no mention of an encroachment issue. He noted that it has been 2-1/2 years that members of the cooperative have attended Conservation Commission meetings. J. Benard asked if the Conservation Commission ever asked how the lawns were being kept up and P. Woodbury stated that it did not.

Bill Koury, Four Plummer Drive, a member of the board of directors at Nevins, addressed the Board in favor of the application. He expressed his concern over the lawns not being fertilized. He added that when he bought the land, he did not get an individual plot plan. J. Tirabassi asked if it would be possible to get minutes of meeting pertaining to this project. R. Canuel stated that the Board can request it from the Conservation Commission. J. Tirabassi noted that he would like to do that and in his opinion there would not be a resolution until he saw what was said on the other side, as he did not feel comfortable without that information.

Carl Tomanelli, Two Harriet Court, addressed the Board again stating he was involved with resident advisory board, the Conservation Commission, wetlands, and the walking trail. He stated he oversaw the committee for this.

Bill Melone, 43 Morrison Drive, addressed the Board again noting the lawns were put in and probably should not have been put in, but since the lawns are there, they should be maintained. He also noted that there are decks and patios within the buffer, not just lawns and fertilization.

Anthony Velante, addressed the Board stating the after the December 2015 meeting, the Nevins stopped putting in any fertilizer on the lawns in the buffer area. He noted that the Nevins did the right thing and they are trying to do the right thing again by applying for the variance.



S. Brunelle stated that it has been referenced a couple of times that there are decks and she asked R. Shepard if there were permits to build decks into the buffer zone. R. Shepard stated that to his knowledge there were permits.

Chairman Dunn asked if there was public input that was opposed and there was none. He stated that he needed more information from the Conservation Commission and to pull permits for decks that were built. R. Canuel stated he can look into the permits. N. Dunn stated he would like to continue the case. S. Brunelle stated those restrictions are clearly noted in the deeds. She stated that she can appreciate that everyone was unaware, but the restrictions are on the deed and the plan is on record delineating where the conservation land and buffer zone are. R. Canuel stated in his opinion the Board should make a formal request to have a representative from the Conservation Commission attend the next meeting and address those issues. R. Canuel noted that when the houses were built the Town required prior to issuing certificates of occupancy that the location of the structures be certified on a plot plan by the developer and if any of those encroachments had existed the Town would have been aware of it at the time and taken steps to correct it. N. Dunn asked to formally request from R. Canuel to look into permits for decks being built in the last nine years at this development.

J. Benard asked S. Feinberg to approach the Board and asked him when he bought the house and if he would have bought the house if he did not have the backyard that he perceived. S. Feinberg stated that he bought in January 2016 and it was a tough question because he bought the house with snow cover.

Peter Woodbury, 35 Morrison Drive, addressed the Board again asking for clarification of S. Brunelle's deed comments. S. Brunelle stated that she had looked over the deeds at the registry and found that the notes about the buffer zone are on the deeds. P. Woodbury asked if it was on the individual deeds. S. Brunelle stated that she does not think it would be on everyone's since some are not affected by this.

**J. Benard made a motion for a continuance of CASE NO. 6/21/2017-2: Request for variances from LZO 2.6.3 to encroach 25 feet into the 50 feet Conservation Overlay District buffer to allow the Nevins Retirement Association to continue to maintain the existing lawn behind 22 units, 7-43 Morrison Drive, 2, 4, 5 Harriet Court (Map 7 Lots 122C 30-51), The Nevins Retirement Cooperative Association (Owner & Applicant) to obtain information from the following requests:**

**1. Formal request to have a representative of the Conservation Commission at our next meeting for clarification.**

**2. Formal request for minutes from the Conservation Commission or any communication in regard to the Nevins Retirement Cooperative Association for July 19, 2017 meeting.**

**S. Brunelle seconded the motion.**

**The motion was granted, 5-0-0. The case was continued.**

**C. CASE NO. 6/21/2017-3: Request for a variance from LZO 3.11.6.d.5.b to allow five wall signs where only one is allowed and where three of the five signs exceed the 100 square feet limitation, 10 Webb Drive, Map 14 Lots 35, 36, 38 & 45, Zoned GB, Tana Limited Partnership and Ballinger Properties, LLC, Five-N-Associates (Owners and Applicants)**

S. Brunelle recused herself from this case. N. Dunn appointed A. Deptula to vote for S. Brunelle. J. Tirabassi read the case into the record noting the previous zoning cases. Craig Moore, Barlo Signs International, Hudson, NH and Andy McBeth, Green Leaf Construction, 98 Adams St, Leominster, MA presented for the applicant. Andy McBeth stated the request involves Webb's central distribution facility serving all other locations throughout the Northeast. He described the building footprint (825,000 SF, 920,000 gross SF, and 1,850 feet long). He explained the building uses: trucking, distribution, 75,000 SF of finished space, and amphitheater, training, and a central meeting place. He noted there were four main entrances and Craig Moore described the requested sign locations. He then reviewed the five variance criteria as follows:

- (1) The variance will not be contrary to the public interest: he stated that this massive approved development site was planned and designed to be an attractive addition to the Town of Londonderry business community noting that the installation of signs was incorporated as part of the planning process.
- (2) The spirit of the ordinance is observed: he stated that allowing proper signage for the Webb building will not adversely affect the spirit of the zoning ordinance as proper building identification is in keeping with the spirit. He noted proper signage which is attractive and to scale with its environment meets the ordinance purpose while enhancing the appearance and aesthetic environment of Londonderry, promoting economic growth, controlling visual clutter, and encouraging future business.
- (3) Substantial justice is done: he stated the parcel is an extremely unique property, given the sheer size of the property and the building which prohibits the current sign ordinance from allowing adequate signage. He noted by allowing the applicant the requested signage it needs to identify the building and the various entrances substantial justice will be done and that there is no benefit to the community by prohibiting it to identify itself to the public.

(4) Values of the property are not diminished: he noted that proper signage and attractive building identification benefit the surrounding properties adding that the site is commercial.

(5) The literal enforcement of provisions of the ordinance would result in an unnecessary hardship: he noted the Londonderry sign ordinance does not properly address properties the size of the Webb building. He pointed out that a 100 square foot wall sign would be lost on the proposed building and the size of the sign should directly relate to the size of the building and the visibility. He noted it is reasonable for the applicant to desire signs that clearly identify the site and are compatible with the overall design of the building. He concluded his presentation and welcomed any questions.

Chairman Dunn asked for questions from the Board. N. Dunn asked why there were two variances. J. Benard stated that the first was 3 signs no larger than 100 square feet and then the number of as they are seeking 5 additional signs. R. Canuel stated that he would not list the customer pick up as a sign because it is not advertising anything. C. Moore then stated they are looking for four additional signs. J. Benard asked for the square footage of item F. A. McBeth stated it was 60.59 square feet. N. Dunn asked if sign F and C are lit. C. Moore stated that item D1, D2 and E are not illuminated and items F and C are. N. Dunn asked if the signs will stay on all night. A. McBeth stated that has not been determined yet. J. Tirabassi asked if item C was the branding sign. C. Moore stated it was. N. Dunn asked if there were two variance numbers as two separate variances. J. Benard stated there were two separate voting sheets with the same case number. J. Benard stated that her calculations for all the signs are 508.04 square feet. A. McBeth stated he would check the calculations. N. Dunn asked the presenters if they were agreeable to the Board referencing the date on the drawings as 1/30/17 and they were.

Chairman Dunn asked for public input and there was none.

Chairman Dunn closed public input and the Board began its deliberations. J. Benard asked which signs are larger than 100 square feet. A. Deptula answered C, D1 and D2. N. Dunn noted that technically they are allowed E, as it is 60 square feet. J. Benard stated that the voting record will be one for each. N. Dunn asked R. Canuel if those would be 2 different variances. R. Canuel stated that it could be handled as 2 separate variances because theoretically if the Board denied a variance for one part, then the other variance would be denied. R. Canuel stated it is 1 variance application with 2 requests. J. Benard stated that the Board will do them separate as it was presented in the packet.

The Board deliberated the request for a variance for three signs larger than 100 square feet as follows:

(1) The variance will not be contrary to the public interest because of the location of the building, the size of the building, the zoning. The Board noted the essential character of the neighborhood will not be altered.

- (2) The spirit of the ordinance is observed because of the purposes mentioned in LZO 3.11.1 which are to promote signs that are harmonious in color, material and lighting to buildings and the surrounding to which they relate, and to promote the economic growth of Londonderry by creating a clean image that is conducive to attract new business or industrial development.
- (3) Substantial justice is done because the signs would allow for easy identification of points of interest and the signs are proportional to the size of the building.
- (4) Values of the property are not diminished because the development is the biggest building in that location.
- (5) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because the size of the lot and building make it a unique property and the proposed use is a reasonable one as noted in page 2.15 of the OEP handbook the size of the building may constitute special conditions that form the basis for unnecessary hardship.

The Board noted the following restriction: Per submitted drawings with revision date of 1/30/17 for signs C, D1 and D2.

The Board then deliberated the second variance request regarding the total number of signs. The Board noted the same reasons in the fact finding sheet for the first variance applied to the second.

**J. Benard made a motion in CASE NO. 6/21/2017-3 to grant the request for a variance from LZO 3.11.6.d.5.b to allow five wall signs where only one is allowed and to allow three signs, which are larger than the 100 square feet limitation, for a property located at 10 Webb Drive, Map 14 Lots 35, 36, 38 & 45, Zoned GB, Tana Limited Partnership and Ballinger Properties, LLC, Five-N-Associates (Owners and Applicants).**

**With the restriction as follows: Per submitted drawings dated revision 1/30/17 for signs C, D1 and D2 to be the size which is larger than the 100 square feet and for submitted drawings dated revision 1/30/17 for the signs C, D1, D2, E and F which are the five signs where only one is allowed.**

**Member J. Tirabasi seconded the motion.**

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

## **II. Communications and miscellaneous: Training**

The Board was made aware of training being offered tomorrow night at 7 p.m.

III. Other business: **None**

Member J. Benard made a motion to adjourn at 10:02 p.m.

A. Deptula seconded the motion.

The motion was granted, 5-0-0. The meeting adjourned at 10:02 p.m.

RESPECTFULLY SUBMITTED,

  
\_\_\_\_\_  
CLERK

TYPED AND TRANSCRIBED BY Beth Morrison, Recording Secretary.

**APPROVED (X)** WITH A MOTION MADE BY Jim Tirabassi, SECONDED BY JB, 5-0-0