

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

DATE: MARCH 21, 2012

CASE NO.: 3/21/2012-1

APPLICANT: RAYMOND B. AND JEANNINE T. WHEELER
18 WILSHIRE DRIVE
LONDONDERRY, NH 03053

LOCATION: 18 WILSHIRE DRIVE; 6-99-45; AR-I

BOARD MEMBERS PRESENT: JAMES SMITH, ACTING CHAIR
LARRY O'SULLIVAN, VOTING MEMBER
JAY HOOLEY, VOTING MEMBER
NEIL DUNN, CLERK

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

REQUEST: SPECIAL EXCEPTION TO ALLOW A HOME OCCUPATION FOR A MASSAGE
THERAPIST IN ACCORDANCE WITH THE PROVISIONS OF SECTION 3.12.

PRESENTATION: Case No. 3/21/2012-1 was read into the record with no previous cases listed.

JIM SMITH: Who will be presenting?

JEANNINE WHEELER: My name is Jeannine Wheeler. I'm requesting a zoning variance for a home business.

JIM SMITH: Okay, go ahead.

JEANNINE WHEELER: The business would be at 18 Wilshire Drive, Londonderry. I am a licensed massage therapist and am requesting an in-home business. I have one (1) room in my home that I'd be using for this office. The days of operation would primarily be by appointment only. It is...I do work outside the home, so it is not my primary business. And I was thinking of having a sign on a wishing well because of the name "Wheeler's Well" is my company's name. Just freestanding on the lawn. But I have not purchased that at this point. The floor plan included shows the office space. It's ten (10) by twelve (12), so a hundred and twenty (120) square feet, which is thirteen (13) percent of our fifteen sixty three (1,563) square foot house. The driveway would be where the client would park and it would be one (1) client at a time. Randomly. It wouldn't be one after another even because it is a new business. It is within the dwelling, within the house. It would not change the house at all, I'm not renovating or putting anything differently. No exterior. No storage of materials. And it's just my immediate family in the house and no one would be employed, actually, but me.

45 And traffic would be extremely minimal. At this point, maybe like one (1) client a week, if that. It would be as
46 if a friend was coming over. There'd be a one (1) hour or one hour and a half (1 ½) appointment and then time
47 in between if there was another one. I also put that I'm going to purchase...I did purchase larger house
48 numbers 'cause our...the street is not numbered, like on, you know, evenly, so that they could find the house
49 easier and then hopefully, with the sign, when I get one. It's not a child care home business. And I don't need
50 a play area. And I believe that's it.

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52 JIM SMITH: Okay. Any questions?

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54 LARRY O'SULLIVAN: Sure. Miss Wheeler, you say you will have one (1) at a time, one (1) customer there at a
55 time. You're parking, you're driveway is gonna be an issue for us and where you are on Wilshire is not well
56 traveled I would assume as well. But getting in and out of there, we wanna make sure that anybody who is in
57 and out of there or driving along or if there are children in there, that they are protected and...you know, our
58 concern and your neighbor's concern too is gonna be, "Okay, how commercial is this gonna be?" So, you've
59 done a pretty good job, Miss Wheeler, of letting us know that, you know, the little sign that you're gonna put
60 up is on your wishing well and, you know, it's really like a neighborhood kind of an area that you're in there
61 with lots of residences. There's no other businesses around that I'm aware of and the issue that your
62 neighbors and we are going to have is are you gonna be able to keep it as safe as you currently have it? Is
63 there gonna be a lot of traffic that you're adding? When we give you a special exception, it's not gonna be for
64 a one (1) at a time. We can't limit you to one (1) at a time because there's nobody to police it. There's
65 nobody to enforce it. So by having the business there, what we'd like to be able from hear from you is that
66 what your intentions are. Obviously, you live there. Do you leave the premises for some other reason during
67 the day? Are you there all day?

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69 JEANNINE WHEELER: I am not there all day. I only have one day off. I work at two other places.

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71 LARRY O'SULLIVAN: Mm-hmm.

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73 JEANNINE WHEELER: So...and my business cards do not have my address on it because it is my home. So if
74 someone were to come on my day off or in the evening, we would already be home and they would just pull
75 into the driveway as if a friend was coming over, that kind of thing. It shouldn't impact safety in any way.

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77 LARRY O'SULLIVAN: How long is your driveway?

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79 JEANNINE WHEELER: I'm not sure if I know that.

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81 LARRY O'SULLIVAN: Do you see it there? I don't see it measured at all. I see that you have a driveway. And
82 other than that...

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84 NEIL DUNN: It's pretty...I'll betcha it's a hundred (100) feet at least.

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86 JEANNINE WHEELER: It's pretty long. It's the whole...the house is set back and it is a whole side from the
87 street, but I don't know how long it is.

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89 JIM SMITH: Well, the side was two ninety two (292) and it's about half way back, so...

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91 NEIL DUNN: Yes.
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93 JIM SMITH: ...you're talking a hundred and forty (140), fifty (150) feet probably.
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95 LARRY O'SULLIVAN: In other words, room for another car.
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97 JEANNINE WHEELER: Plenty.
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99 LARRY O'SULLIVAN: Or two (2) maybe.
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101 JEANNINE WHEELER: Yeah.
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103 LARRY O'SULLIVAN: Thank you.
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105 JIM SMITH: Would be my guess. Were you going to have any other employees?
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107 JEANNINE WHEELER: No, sir.
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109 JIM SMITH: No outside employees. No outside storage of any type?
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111 JEANNINE WHEELER: No, sir.
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113 JIM SMITH: Approximately how many cars do you think you could park in your driveway?
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115 RAYMOND WHEELER: I'd say four (4) or five (5).
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117 JEANNINE WHEELER: That's my husband. Probably four (4) or five (5).
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119 JIM SMITH: Okay, so there's...
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121 RAYMOND WHEELER: [indistinct]. It's a big driveway.
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123 JIM SMITH: If you're gonna speak, sir, could you come up to a microphone and identify yourself?
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125 JEANNINE WHEELER: I guess he doesn't want to.
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127 JIM SMITH: Well, it's more for the record than anything. Just so we have a record of who's speaking. Any
128 other questions? Okay, at this point, I'll open it up to anybody who is in favor. If not, anybody who is in
129 opposition or has questions? We have quite a few people here but not many interested in this case, evidently.
130 So therefore, I'll bring it back to the Board.
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132 NEIL DUNN: Would you object to us limiting the number of people in a day? 'Cause I think we can do that,
133 Larry, and then just ask for the neighbor's help in monitoring that.
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135 JEANNINE WHEELER: I don't think so. I mean, depending on what your number would be, but I would not,
136 you know, in a perfect world, have more than six (6) clients a day. So I don't know what your number...what
137 you were thinking, but if I had six (6) clients a day, I would probably go get an office, like, outside the home.
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139 NEIL DUNN: And that's why I'm asking because earlier when you spoke, you spoke about maybe one (1) or
140 two (2) and now you're bringing up six, so I'm just trying to get a handle on how much...I mean, 'cause if we
141 gave it to you with no restrictions, then you could be open all day long and people could be rolling in and out
142 and that's what I'm trying to get a handle on and what...
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144 JEANNINE WHEELER: Right.
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146 NEIL DUNN:what you see would be realistic, I have no idea what...
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148 JEANNINE WHEELER: Okay.
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150 NEIL DUNN: ...how many patients you can see in a day, I guess, or what...the clients.
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152 JEANNINE WHEELER: So I'm...correct. What I'm saying is a feasible amount is six (6) a day in a perfect world.
153 But I'm saying I don't have a clientele as yet, so, you know, one (1) or two (2) a month is how you start but I
154 wouldn't have a problem with you limiting that if it was reasonable. Within, you know, or close to the six (6), I
155 guess.
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157 NEIL DUNN: Thank you.
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159 JAY HOOLEY: If I could just...on the weekends, you indicated 9:00 AM to 8:00 PM and six (6) in there, assuming
160 somewhere normally in an hour appointment, would you be looking at six (6) during your evening hours
161 between 3:00 and 8:00 or are you talking a smaller number during that...?
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163 JEANNINE WHEELER: It would be a smaller number.
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165 JAY HOOLEY: Yeah, okay.
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167 JEANNINE WHEELER: And I just put...at first I was gonna put my limited hours, but then I put all the time
168 because I, you know, situations change. I just started a new job within the last month, so, you know, my hours
169 changed too. So I just...why I put all availability, but I'm really not available all that, so...
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171 JAY HOOLEY: That was more to just cover what...
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173 JEANNINE WHEELER: Right.
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175 JAY HOOLEY: ...might happen.
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177 JEANNINE WHEELER: What might happen. Correct.
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179 JAY HOOLEY: As opposed to something you intend to fill all the time?

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JEANNINE WHEELER: Correct.

JAY HOOLEY: Okay.

LARRY O'SULLIVAN: So right now you're asking for between 9:00 AM and 8:00 PM on weekends and 3:00 to 8:00 PM during the week? And that's seven (7) days a week?

JEANNINE WHEELER: Correct.

LARRY O'SULLIVAN: Because you don't know what's gonna happen.

JEANNINE WHEELER: Right.

LARRY O'SULLIVAN: Okay.

JEANNINE WHEELER: And I work six (6) days a week elsewhere right now, so...

LARRY O'SULLIVAN: Well, our issues are going to be that because you have the hours that you list are what we're either going to say yes or no to, we can modify those hours. Or we could say, "Well, you can't see anybody past 6:00 on the weekends," or something along those lines, but at the same time, you're not sure if all your business is gonna be Saturdays at 6:00 or Sundays at 7:00, right? So...tough. I mean, it's a difficult situation for us here.

JIM SMITH: Yeah, 'cause it's an extensive amount of time.

NEIL DUNN: Well I think that's why I was trying to get a handle on the number of people in a day as some kind of a regulation.

LARRY O'SULLIVAN: People in a day as opposed to hours?

NEIL DUNN: The hours, I mean, no, I mean, if she said midnight or 3:00 or something, I think I might want to reel back on that, but, you know, because you don't know and if it is, you know, if she was to have two (2) or three (3) in the 3:00 to 8:00 window, you know, I don't know. I was trying to get a handle on how do we...

LARRY O'SULLIVAN: Me too. That's...

NEIL DUNN: How do we pull it in and not make it a retail neighborhood with late night hours or whatever.

LARRY O'SULLIVAN: Well, there's...

NEIL DUNN: So I was trying to think...

LARRY O'SULLIVAN: This is an "appointment only" business, isn't this?

225 JEANNINE WHEELER: A what?
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227 LARRY O'SULLIVAN: An "appointment only"?
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229 JEANNINE WHEELER: Right, it's appointment only.
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231 LARRY O'SULLIVAN: You don't get people walking in the door, so...
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233 JEANNINE WHEELER: Right. And I don't advertise my address.
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235 JIM SMITH: Any other comments? Is there any way we could reduce the evening hours from 8:00 to, say
236 6:00?
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238 JEANNINE WHEELER: Sure.
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240 JIM SMITH: Would you be acceptable to that?
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242 JEANNINE WHEELER: Mm-hmm.
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244 LARRY O'SULLIVAN: Are you talking about the weekends or weekdays, Jim? Or both?
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246 JIM SMITH: I would think the weekdays, I mean the weekends especially. Generally...
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248 LARRY O'SULLIVAN: No 9:00 to...
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250 JIM SMITH: Especially in the summertime, you're still pretty light, people are gonna be out and about,
251 especially in the evening.
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253 LARRY O'SULLIVAN: Mm-hmm. So you're alright with a 9:00 to 6:00 for the weekends and 3:00 to 8:00 for the
254 weekdays?
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256 JEANNINE WHEELER: Sure.
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258 LARRY O'SULLIVAN: Okay. Is that where you were driving at, Jim?
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260 JIM SMITH: Yeah, something to reduce it a little bit. I mean, you know, when you figure 9:00 to...you're
261 talking what, eleven (11) hours on a weekday...a weekend. Five (5) hours each day. Twenty five (25)...let's see
262 thirty five (35)...you're talking forty (40), fifty (50) a week possibly. Quite a bit of possible time. And again, I
263 can understand where you're coming from because you don't know how to predict it because you don't what
264 your potential is. Any other comments? No other comments from the...or questions from the audience? In
265 that case, I'll close the meeting...the hearing part of the meeting and take this under advisement.
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267 DELIBERATIONS:
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269 LARRY O'SULLIVAN: Okay, are you ready for me?

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JIM SMITH: Yup.

LARRY O'SULLIVAN: Obviously, I don't have an issue with the home occupation here. I think most of us are aware what a masseuse can do and, you know, there's none of the issues about the hair dressers that we've had where there's chemicals and all the rest of that stuff and, you know, the harsh chemicals and what have you, potentially. There's no motor anything, there's, you know, as far as I'm concerned, this is using a spare bedroom to turn it into a hobby room or something, but at the same time it's a business, so...and it's a licensed business, too, so as far as I'm concerned, I don't have any issue with it. I do think it's a good idea, Jim, that you came up with the request to ask for the limited hours on the weekends. As far as I'm concerned, that puts it over the top. Wouldn't be an intrusion to me if it was my next door neighbor, so...

JIM SMITH: Any other comments?

NEIL DUNN: My only concern is, again, hitting that number of visitors a day. If she, on a weekend, you know, theoretically, like you said, she could have twelve (12), maybe more people a day visiting. I think that's when we start to impact the neighborhood more. You're doing that...well, like you said, almost eighty (80) hours. If you did them on the hour, that's that many more trips in a small residential neighborhood, so I start getting concerned that now we're getting into the clause of adversely impacting traffic and that and, you know, you put a bunch of those in the neighborhood and all of a sudden it's not really a neighborhood anymore with all those extra trips. That's why I asked about the six (6) a day, and then that would be a trigger, so I'd like to see...she seemed okay with six (6). That seems fair to me, over the course of a day. I don't know what anybody else thinks.

JAY HOOLEY: I don't think you'd even squeeze six (6) in during the afternoon hours.

NEIL DUNN: No, but...

JAY HOOLEY: It would only be on the weekend and that...if that was agreeable.

LARRY O'SULLIVAN: Miss Wheeler also said, though, that if she had six (6) clients at any particular time, she'd get an office someplace, so...

JAY HOOLEY: [indistinct].

NEIL DUNN: Right, and that's where I'd wanna limit it because instead of making it more...

LARRY O'SULLIVAN: Sure, that's fine.

JIM SMITH: Yeah, between 3:00 and 8:00, if she...that's five (5) hours. If she spent an hour each, that's only five (5) possible.

JAY HOOLEY: And that's no in between time. You wouldn't even get that.

JIM SMITH: No.

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LARRY O'SULLIVAN: There's no way you can do that.

JIM SMITH: Right.

NEIL DUNN: I don't know. How long [indistinct]?

LARRY O'SULLIVAN: An hour and a half, anyway.

JIM SMITH: Six (6)...nine (9)...So if we go 9:00 to 6:00 PM, the max you'd probably get an hour a piece and you're talking nine (9) now. So you're still not much more than what you're suggesting.

NEIL DUNN: Yeah, but could there be half hour appointments? I think they probably could be a whole bunch of different things and that's why I'm trying to just rein it in by number of trips, so we're not impacting the neighborhood.

LARRY O'SULLIVAN: Mr. Chair, would you mind asking the applicant, since we don't have a handle on that and she hasn't left the room?

JIM SMITH: Yeah, we could...

LARRY O'SULLIVAN: How long an appointment is?

JIM SMITH: For that one limited piece of information.

LARRY O'SULLIVAN: How long is an appointment?

JEANNINE WHEELER: An appointment can be an hour or an hour and a half, generally. And then I do need time in between, change linens and go to the bathroom and eat, you know, that kind of thing. So it wouldn't be someone every hour, you know, and like I...it'd be probably more spread out through the day. Like, through the...on a weekend, maybe like...

JIM SMITH: So we would...going by those...that time estimate, we're less than six (6).

LARRY O'SULLIVAN: Oh yeah. So if you limit it to six (6) in a day, that's totally doable. It just seems to me to be another regulation that she couldn't possibly meet anyway, so.

JEANNINE WHEELER: And it physically...

LARRY O'SULLIVAN: Doing six (6) in a day...

JEANNINE WHEELER: ...six (6) would be like a limit for a person.

JIM SMITH: Okay.

360 LARRY O'SULLIVAN: She'd have muscles coming out her muscles.
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362 JIM SMITH: Okay. Do we have a motion?
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364 LARRY O'SULLIVAN: Oh, are you ready for a motion?
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366 JIM SMITH: I think so.
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368 LARRY O'SULLIVAN: I didn't think you were done with discussion. I'd like to make...
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370 JIM SMITH: Anyone else with any additional comments?
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372 LARRY O'SULLIVAN: Did you want to hear from Jay?
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374 JAY HOOLEY: I'm fine.
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376 LARRY O'SULLIVAN: Okay, I'd like to make a motion to approve case number...I'm sorry, I lost it...3/21/12/-1,
377 the special exception for 18 Wilshire, with the restriction that the hours be limited to on the weekends
378 between 9:00 and 6:00 and that no more than six (6) clients in a day will be allowed.
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380 JIM SMITH: All those in favor?
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382 LARRY O'SULLIVAN: Aye.
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384 NEIL DUNN: Did you want it seconded or did...?
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386 JIM SMITH: Okay, Jay do you want to second?
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388 JAY HOOLEY: I actually wanted to ask a question...
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390 JIM SMITH: Sure.
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392 JAY HOOLEY: ...if we wanna put anything in about maintaining a license or is that...?
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394 LARRY O'SULLIVAN: No, if she doesn't have a license, she doesn't have a job.
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396 JAY HOOLEY: Right.
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398 NEIL DUNN: There was also something about larger house numbers.
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400 LARRY O'SULLIVAN: That's voluntary.
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402 NEIL DUNN: Okay. Nope, I just didn't know if you wanted to throw it in. I'll second the motion.
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404 JIM SMITH: Neil seconds. All those in favor?

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LARRY O'SULLIVAN: Aye.

NEIL DUNN: Aye.

JAY HOOLEY: Aye.

JIM SMITH: Aye.

RESULT: THE MOTION TO GRANT CASE NO. 3/21/2012-1 WITH RESTRICTIONS WAS APPROVED, 4-0-0.

RESPECTFULLY SUBMITTED,

A handwritten signature in cursive script, appearing to read "Neil Dunn".

NEIL DUNN, CLERK

TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

APPROVED APRIL 18, 2011 WITH A MOTION MADE BY LARRY O'SULLIVAN, SECONDED BY JAMES SMITH AND APPROVED 4-0-1 WITH MATT NEUMAN ABSTAINING AS HE HAD NOT ATTENDED THE MEETING.