

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

DATE: MARCH 21, 2012

CASE NO.: 3/21/2012-3

APPLICANT: LEONARD SANTOSUOSSO III
5 RED FERN CIRCLE
LONDONDERRY, NH 03053

LOCATION: 7 COTEVILLE ROAD; 13-74-1; 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: VARIANCE TO ALLOW A COMMERCIAL BUSINESS OFFICE IN AN EXISTING
RESIDENTIAL BUILDING WHERE OTHERWISE NOT PERMITTED BY
SECTION 2.2, TABLE OF USES.

PRESENTATION: Case No. 3/21/2012-3 was read into the record with nine previous cases listed. The Clerk also read Exhibit "A" into the record, a letter from an abutter.

JIM SMITH: Go ahead. Identify yourself and...

LENNY STANTOSUOSSO: Yup. My name's Lenny Stantosuosso. I'm the owner of 7 Coteville. What I'm looking to do there is do a business office where...I'm a general contractor here in town. The building is...I bought it in hopes to do a little bit more than what it is right now. It's definitely great for storage, and that's what I'm using it for as of right now. But in the process of growing my business, I am trying to create a place where people can come and see some products and just run my business out of that. So that way, I can move it out of where I am now, just so I can have one bill instead of two. So I'm not really impacting, I don't feel, anything around the neighborhood. Everything that will be there will be appointment only. I don't plan on putting a sign up. It's something that...I'm just gonna, you know, let people know where I am and it will be, like I said, appointment only. The building now, if you look at it, it definitely doesn't fit, which I did give you guys pictures, doesn't fit a residential look. And my plans are, if I do get this business office, is to update the building, create a much nicer look, vinyl sided. Right now it's cinder block on the outside. Just give it a nicer look. Pave the driveway. It's not paved now, it's dirt. And just give it a much better look. The impact on the street, that street is very well traveled, even though it's a very small street and I don't see a big impact

45 because it's...being a general contractor, it's not like I'm gonna have people or appointments non-stop. It's
46 gonna be once in a while.
47
48 JIM SMITH: So you're running a general contracting business from there?
49
50 LENNY STANTOSUOSSO: Am I running it?
51
52 JIM SMITH: I mean, that's what you're proposing.
53
54 LENNY STANTOSUOSSO: Correct.
55
56 JIM SMITH: Okay.
57
58 LENNY STANTOSUOSSO: Yup. With an office as well where I can have some examples of what we do, so when
59 I do bring clients back, they'll be able to see it, see the workmanship that I do present, and hopefully be able
60 to sell more jobs.
61
62 LARRY O'SULLIVAN: It looks like there's two (2) buildings on this lot.
63
64 LENNY STANTOSUOSSO: That smaller building is actually a pump house of some sort owned by PSNH or
65 something of that nature. It's not mine. It's actually, they bought the land off of...this is prior to me owning
66 the land. It's on the land I'm on, but it's not actually...I don't own it, I don't rent it. It's their own land.
67
68 JIM SMITH: It's a water pumping station for the water system.
69
70 LARRY O'SULLIVAN: So they have an easement or something on that? Is that what that would be?
71
72 RICHARD CANUEL: No, I think it's actually a separate lot.
73
74 LENNY STANTOSUOSSO: Yeah, they somehow bought it off...
75
76 RICHARD CANUEL: I think it's actually separated off. It shows as one lot there on your...?
77
78 LARRY O'SULLIVAN: No, it shows a...
79
80 JAY HOOLEY: Red line around it.
81
82 LARRY O'SULLIVAN: It is a separate lot inside, totally inside. No access to the outside.
83
84 RICHARD CANUEL: Mm-hmm.
85
86 LARRY O'SULLIVAN: [indistinct].
87
88 NEIL DUNN: Maybe he gets free water.
89

90 LARRY O'SULLIVAN: Do you get free water?
91
92 LENNY STANTOSUOSSO: I don't, no.
93
94 LARRY O'SULLIVAN: So your intention is...right now it's used for storage.
95
96 LENNY STANTOSUOSSO: Yup.
97
98 LARRY O'SULLIVAN: You use it now for storage?
99
100 LENNY STANTOSUOSSO: Correct.
101
102 LARRY O'SULLIVAN: May I ask what you store in it?
103
104 LENNY STANTOSUOSSO: Just all my extra wood from jobs. I have extra cords, I have some...
105
106 LARRY O'SULLIVAN: No trucks...
107
108 LENNY STANTOSUOSSO: No.
109
110 LARRY O'SULLIVAN: No steamrollers, no cement mixers, no...
111
112 LENNY STANTOSUOSSO: No. I do have a dump trailer. That's actually in the garage. But that's it.
113
114 LARRY O'SULLIVAN: Okay, so is your intention to put any of those types of vehicles in this?
115
116 LENNY STANTOSUOSSO: Maybe once in a while when I know a big storm's coming, just so I get out of the
117 driveway, so that way I can have easier plowing, but no, I don't plan on parking vehicles in the building.
118
119 LARRY O'SULLIVAN: Would you have any need for outside storage?
120
121 LENNY STANTOSUOSSO: I don't feel I will. Those garages are quite large.
122
123 LARRY O'SULLIVAN: It looks like you're gonna take away one of the garage doors and put in some other type
124 of...
125
126 LENNY STANTOSUOSSO: That's where the office would be, correct.
127
128 LARRY O'SULLIVAN: Okay,
129
130 LENNY STANTOSUOSSO: Yup.
131
132 NEIL DUNN: If I may, before you go to the five points, ask Richard a question on this? This was granted a
133 business prior...I thought the variance stayed with the land.

134
135 RICHARD CANUEL: Well, that's the crux of the matter. Since that variance was granted, the property has been
136 converted to a conforming residential use. So once that is done, the use for which the variance was granted is
137 considered abandoned and null and void at that point. So now we have a conforming use that is permitted in
138 that zone. A residence. So anything to happen other than what's allowed in that zone would take another
139 variance.
140
141 NEIL DUNN: So when someone set up residence and got rid of the welding business or whatever all these
142 other ones that were there...
143
144 RICHARD CANUEL: That's right.
145
146 NEIL DUNN: They had to come and say "I want to make it a residence again"?
147
148 LARRY O'SULLIVAN: Yeah.
149
150 RICHARD CANUEL: Yup.
151
152 NEIL DUNN: Oh, okay, I...
153
154 RICHARD CANUEL: Yes.
155
156 LARRY O'SULLIVAN: You were here.
157
158 RICHARD CANUEL: That's just what happened.
159
160 LARRY O'SULLIVAN: You don't remember?
161
162 NEIL DUNN: Okay, thank you.
163
164 JAY HOOLEY: To look at it...
165
166 NEIL DUNN: Was that a one o'clock in the morning one?
167
168 LARRY O'SULLIVAN: I think it was, yes.
169
170 NEIL DUNN: Okay, thank you. Sorry to...
171
172 JAY HOOLEY: To look at it, it obviously was designed as something other than a residence.
173
174 NEIL DUNN: Yeah.
175
176 JAY HOOLEY: Not having been here at the time...
177

178 RICHARD CANUEL: Oh, yeah, I mean, there's no question he building's been used for a number of years for
179 anything other than a residence and it certainly was not built for the intent of being used as a residence, but,
180 you know, as I said, since the granting of those variances, it's been converted to what is now a conforming use,
181 so everything else goes away.
182
183 JIM SMITH: I think it was a lumber yard at one point.
184
185 RICHARD CANUEL: Is that right?
186
187 JIM SMITH: Among other things.
188
189 LARRY O'SULLIVAN: Yeah, well, the drywall business that they had...
190
191 JIM SMITH: Well, that was another time.
192
193 LARRY O'SULLIVAN: Yeah.
194
195 JIM SMITH: Actually, it was a much bigger lot because they subdivided off the lot where the duplex is, I
196 believe.
197
198 LARRY O'SULLIVAN: Okay, are we gonna cover the five points?
199
200 LENNY STANTOSUOSSO: I'm sorry?
201
202 LARRY O'SULLIVAN: We're ready for the five points, are you>
203
204 LENNY STANTOSUOSSO: Sure. Alright, number one, the variance will not be contrary to the public interest. I
205 wrote down, the variance is not contrary to public interest because the property has previously been used as a
206 business and storage site. Number two, the spirit of the ordinance...the only exterior changes that I will be
207 changing will be to make it more residential looking. I'm not gonna make it any more commercial looking and
208 I'm gonna try to make it fit the neighborhood better than it does now.
209
210 LARRY O'SULLIVAN: You said you, excuse me, you were gonna do that with vinyl, and you would pave the
211 driveway and...?
212
213 LENNY STANTOSUOSSO: Yup. What I plan on doing is it has nice windows in the front, it's Andersen windows,
214 which is nice. I wanna vinyl side the top, the lower part down underneath the windows, I wanna do cultured
215 stone. Just to give it a nicer look, give it a richer look, give it more of a nice colonial, because that's...from the
216 front of the building, it would appear like a colonial, but whoever built it just didn't give it that nice face lift, so
217 that's what I do plan on doing in the future with that.
218
219 LARRY O'SULLIVAN: Okay, so it looks like you're gonna turn it into a home, but you're asking for a business.
220
221 LENNY STANTOSUOSSO: It has a two (2) bedroom apartment in it now.
222

223 LARRY O'SULLIVAN: This is an already confused lot.
224
225 LENNY STANTOSUOSSO: Right.
226
227 JIM SMITH: Yes.
228
229 LENNY STANTOSUOSSO: It does have a two (2) bedroom apartment in the front of it. That's when...when
230 you're looking at it from the street, that's what that front part is, is the two (2) bedroom apartment. Beyond
231 that is the two (2) garages. The middle garage I wanna keep as storage. The garage beyond that is where I do
232 wanna bring or create my office. My business office. So, again, the front, what you're gonna see from the
233 street, will eventually look more like a residential look. Driving into the driveway, which it's plenty big for the
234 tenants just to have two (2) cars plus any client that does come to see my products, you know, there's
235 definitely plenty of parking. I'm not gonna take away from anything on the street. Nobody's gonna have to
236 park on the street. From the side, or the driveway, you still have a big garage door, but I don't plan on
237 changing that just so I can get in there to use it as storage.
238
239 LARRY O'SULLIVAN: Okay, so is there anything that isn't being done at this property? You have a residence on
240 it, you've got a commercial on it, you've got warehouse space on it. What else?
241
242 LENNY STANTOSUOSSO: That's...I mean, it's...
243
244 LARRY O'SULLIVAN: Do you need a kennel or something? Do you need [indistinct]?
245
246 LENNY STANTOSUOSSO: No, no, no kennels. No. No, it already had the residence there and it has the garages
247 in the back, so I bought it in the hopes to create, like I said, a business office and storage, just so I can be more
248 organized and be able to grow as a contractor here in town.
249
250 JIM SMITH: No outside storage then.
251
252 LENNY STANTOSUOSSO: No.
253
254 JIM SMITH: Okay.
255
256 LENNY STANTOSUOSSO: Nope. No, it's plenty big. The middle garage is, I think, eighteen (18) feet by almost
257 sixty (60) feet long, so I shouldn't need to put anything on the outside.
258
259 JAY HOOLEY: Could we get clarification of "to see products."
260
261 LENNY STANTOSUOSSO: Mm-hmm.
262
263 JAY HOOLEY: When, specifically, you'd be bringing people by to see...?
264
265 LENNY STANTOSUOSSO: Well, I wanna do, on the inside, I wanna do, like different types of railing systems, I
266 wanna do, you know, possibly a small kitchen, just so I can show different people the type of cabinets I can get
267 them or even the different moldings I can put on the cabinets. Trying to sell jobs, it's very difficult to tell

268 people just by looking at pictures. It's nice, people wanna be able to touch and feel, so that's what I plan on
269 doing. Showing maybe different glass types for shower doors. Different flooring that I can provide for people
270 as well.

271
272 JAY HOOLEY: It's functionally a showroom then for renovation.

273
274 LENNY STANTOSUOSSO: Yeah, I guess you could call it that. I mean, it's not...it's gonna be appointment only.
275 It's not something we plan on manning. My wife, she's here, she runs the office and she doesn't wanna go
276 there and run it there. She wants to stay where it's convenient, at our house now, just answering phones,
277 so...But I do wanna be able to bring clients by, and like I said, it would be appointment only. Let's see, number
278 three, substantial justice is done. Giving the property a more residential look in the process of helping the
279 neighborhood as best we can. I personally feel that making this look more residential, it should or help other
280 houses have a better or higher sale when they want to sell. And because right now, I know I wouldn't want to
281 live next to it. It looks...we call it the prison. It sort of looks like, so...The other surrounding properties are not
282 diminished. Again, the building will still be comparable to how it's already impacted the neighborhood.
283 There'll be no additional storage added, no alterations besides making it look better and the business will be,
284 you know, on the side or in the back. Again, it's only appointment only for any clients that come by. Let's see,
285 number five, the building that exists currently was constructed for a business, as you can tell, and it's already
286 been...already, as you guys have listed, how many different businesses have been in there. So we're just
287 trying to do the same thing with it and make it look better for the neighborhood.

288
289 JIM SMITH: Okay. Any questions from the Board? If not, anyone who would like to speak in support of this?
290 Anyone who has questions or would like to speak in opposition? Could you please approach a mic and identify
291 yourself?

292
293 LAURA WILLIAMS: My name is Laura Williams and I'm number 10 Coteville. I'm exactly across the street from
294 number 7. First, I wanna thank him for actually buying the property. And I'm excited at the fact that he is
295 gonna upgrade.

296
297 JIM SMITH: You wanna get a little closer to the mic? Pull the mic towards you or something. Yeah, that'd be...

298
299 LAURA WILLIAMS: Is that better?

300
301 JIM SMITH: Yeah.

302
303 LAURA WILLIAMS: Okay. I guess I'm like Harry [see Exhibit "A"]. I do fear of, you know, the traffic. Of...he
304 was talking about having clients come and see, you know, your kitchens. But another thing too is where I'm
305 really concerned about, is where are you gonna keep your, like you said, "supplies."

306
307 LENNY STANTOSUOSSO: Mm-hmm.

308
309 LAURA WILLIAMS: Are you gonna have...I've seen an eighteen wheeler truck come down that road, and as
310 you know, it's very narrow.

311
312 LENNY SANTOSUOSSO: Right.

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LAURA WILLIAMS: So...

JIM SMITH: Ma'am? Direct your questions to us and then...

LAURA WILLIAMS: Oh, I'm sorry.

JIM SMITH: That's the way we're supposed to operate.

LAURA WILLIAMS: Okay. I'm concerned about the eighteen wheelers that come down our street. Already he's had a delivery of kitchens, his cabinets, so where this is a residential area, I'm just kinda concerned. The kids and...

JIM SMITH: Okay. Any other concerns?

LAURA WILLIAMS: Yes. Actually, because if it turns into commercial, my fear is, you know, depreciation of my value of my home also. Say if I decide to sell down the road or he sells his house down the road, some other person buys the house, you know, and they wanna convert, I mean, wanna buy, you know, like get a different kind of business, other than what he has now, that's what I'm concerned about. I mean, maybe his is all good and deed, you know, having this...having cabinets and whatnot, but like I said, say a year down the road, he starts to grow and he needs a bigger facility. He sells. Now it's zoned for commercial, so now, how's that gonna stop someone else from coming in and actually putting in, say, a machine shop or something?

JIM SMITH: Well, he's saying what he's looking for is a commercial business office, so he's fairly specific as to what he's requesting, so...

LAURA WILLIAMS: Mm-hmm.

LARRY O'SULLIVAN: And warehouse. He's gonna store stuff and have an office there.

LAURA WILLIAMS: It's a warehouse too.

LENNY STANTOSUOSSO: We're not looking to change the residential to commercial. We're looking to keep it residential, but just with a business office in residential, so we don't want to change it to commercial. It's something we do wanna keep residential, just to fit the neighborhood 'cause it's kind of...the building does not belong in that neighborhood. So we're trying to make it as residential as possible. Keep it residential just with the option or the opportunity to have a business office at this location.

LARRY O'SULLIVAN: And that was why we ask you the questions or ask the questions about storage and what was going to be there, the types of vehicles that we're gonna be in and out.

LENNY STANTOSUOSSO: Mm-hmm.

356 LARRY O'SULLIVAN: And you answered that you were going to work by appointment only, which is a
357 restriction that we would place on the property if we were to grant the variance. And that means, for
358 example, that if a machine shop wanted to go in there, they couldn't.

359
360 LAURA WILLIAMS: Okay.

361
362 LARRY O'SULLIVAN: Now if a hairdresser wanted to go in there...I'm just teasing.

363
364 LAURA WILLIAMS: Now, what were the hours of the operation on something like this? Would he be pretty
365 much, like, standard, from 7:00 to 5:00 or...?

366
367 LENNY STANTOSUOSSO: Well, there is really no office hours. So, again, it's gonna be appointment only. Of
368 course, 'cause I have stuff there, I may go...I usually start my day right around 7:30 in the morning. Sometimes
369 I'll go there at 7:30 in the morning, pick up stuff, leave, and then go to my job. Other than that, if there is a
370 client that's gonna come to the job, or to the site, it would be by appointment only, so I really don't have any
371 hours. Most clients that I deal with have evening hours. That's really the only time that they have availability
372 to meet with me. They work, I work, and that's usually the only time that we do have to meet. So my guess is
373 probably gonna be more evenings appointments and again, I don't see it being a ton of people coming in. It's
374 not like my, you know, construction's like a retail place. It's not. It's every once in a while, you got a client
375 that comes in that may be interested in coming and seeing my products.

376
377 LARRY O'SULLIVAN: Would that be like a maximum of say, two (2) a night?

378
379 LENNY STANTOSUOSSO: Yeah, I would say.

380
381 LARRY O'SULLIVAN: A maximum of two (2) a night?

382
383 LENNY STANTOSUOSSO: Yeah...

384
385 LAURA WILLIAMS: Are you also talking seven (7) days a week? Or are you talking five (5)?

386
387 LENNY STANTOSUOSSO: Well, definitely not Sundays, so it would definitely be no more than six (6) days a
388 week.

389
390 JIM SMITH: Deliveries.

391
392 LENNY STANTOSUOSSO: Yup.

393
394 LAURA WILLIAMS: Yeah.

395
396 JIM SMITH: Do you have your products that you're gonna use on site delivered to the site or to this location?

397
398 LENNY STANTOSUOSSO: Different jobs, depends. Sometimes I do have deliveries brought to either my shop
399 or my house that I live in now in town or if, depending on how the jobs work out, sometimes I have the
400 deliveries made right to the job site. If I have to store something, then yes, I will have to bring it to my shop,

401 store it until that job's ready, and then I can therefore bring it myself to that job with my trucks that I have.
402 Regarding deliveries, sitting there, watching that street, there's a septic company that's down there, that
403 drives back and forth all day long. I've seen other eighteen wheelers going down there as well. So, on the
404 occasion of getting a delivery, it's gonna be very far and few between.
405

406 JIM SMITH: Any other questions? Sir?

407
408 CHARLES SMITH: Yeah, my name's Charles Smith. I live at 5 Coteville. I own the two-family duplex before it.
409 That little building that you're talking about is Manchester water coming into Pennichuck, going up the street
410 because their well pump didn't work. I've been there fifteen (15) years. I'm the one that came down here and
411 stopped the machine shop. I got so much traffic coming through that I've had to put boulders on my grass to
412 stop the cars from cutting through it. The traffic coming down that street is unbearable. You wanna put
413 more? You're gonna do something like that, I want stop signs, I want lights, I want a twenty (20) foot fence. I
414 can't stand it anymore. There's three times I've wanted to move out of Londonderry because of the traffic
415 coming down that street. I've asked...requested all kinds of things. Police going down there and everything.
416 They sat there for a half hour. For a half hour. I had one this winter spin right around and almost take out my
417 mailbox with my grandson in the driveway. Because he ran up the street afraid of me is the only reason why
418 I'm not in jail today. I got five grandkids. I don't need no more traffic. That building was supposed to be
419 repaired and all kinds of stuff when the city came down and said they owned it. It didn't happen. I like it just
420 the way it is. No commercial. Let's leave it residential.
421

422 LENNY STANTOSUOSSO: In regard to that, I understand the worry about cars and everything else. Being a
423 residential neighborhood, I understand that. That building does not conform to a residential building. If I
424 were to try to sell that in the future, there's not many fits that are gonna be able to buy that just as a
425 residential home. It's something that...I'm not looking to make it crazy commercial, I'm looking to create a
426 business office in that residential home. And by upgrading, again, it's gonna be clients only. I have myself and
427 one other guy that works for me. If we have to go and get material, we're not flying up the street. We're just
428 driving up the street like we're supposed to. So, it's something that we're not looking to create a huge impact
429 in that neighborhood. We're just looking to use that building the way it should be used.
430

431 CHARLES SMITH: If he fixes it up, he can sell it as a regular residential home. So there's no reason to change
432 it from a residential to a commercial at all.
433

434 LAURA WILLIAMS: He mentioned about the eighteen wheeler that came down my street to deliver his
435 products. My husband had to help the eighteen wheeler guy to direct him to back up because he can't...that's
436 a dead end street. So when you have an eighteen wheeler, as you guys know, there's no way of doing a U-
437 turn and coming back out. They actually have to literally back up. So my husband had to help and direct the
438 guy and where that curve is where he lives, if anybody came around that corner, they would have taken the
439 guy out.
440

441 LARRY O'SULLIVAN: How could there be so much traffic on a dead end street? I don't understand it.
442

443 CHARLES SMITH: There's twenty five (25) houses down there and I swear to God, it...
444

445 LAURA WILLIAMS: We don't know.

446
447 CHARLES SMITH: There's gotta be drug dealers down there that's unbelievable.
448

449 LAURA WILLIAMS: Yeah.
450

451 CHARLES SMITH: We have at least fifty (50) to sixty (60) cars per day zipping down that street and I've
452 requested for signs for ten (10) miles an hour and they told me the State says thirty (30). And between my
453 mailbox and my neighbor's, one (1) car can fit. One (1) car.
454

455 NEIL DUNN: There's an auto mechanic down there, too.
456

457 LENNY STANTOSUOSSO: Yup.
458

459 LAURA WILLIAMS: Yeah.
460

461 NEIL DUNN: And then apparently a tree farmer.
462

463 LENNY STANTOSUOSSO: And a septic guy of some sort as well.
464

465 JAY HOOLEY: And a poultry...
466

467 CHARLES SMITH: So do we need more?
468

469 JIM SMITH: I'm not sure what else we can...is there any other comments? Or do you have any other
470 comments, sir?
471

472 CHARLES SMITH: Well, like I said...
473

474 JIM SMITH: Ma'am? Anyone else? Do you have any other comments?
475

476 LENNY STANTOSUOSSO: Only just, like I said, the building the way it sits looked perfect for my construction
477 business to be in and keep the residential look and help the neighborhood. That's really it. That's all. I just...
478

479 JIM SMITH: Okay, at that point, if we have no additional information, we'll close the hearing at this point and
480 take this under advisement.
481

482 DELIBERATIONS:
483

484 LARRY O'SULLIVAN: Well, my question was originally about products, too, you know, a lot of products but
485 when you're doing home building or, you know, that sounds like a lot of carpentry and the like. To me, that's
486 obvious that there's gonna be some of that delivered. So the issue about deliveries, as he mentioned, was
487 gonna be few and far between, which we could...that we can take care of. The upgrade to the property
488 sounds like a good idea. He also said there'd be no sign and work by appointment only. And that occasionally
489 you'd have a truck there. So I don't see how that's obtrusive. As a matter of fact, I have neighbors who do
490 that on their property, on my street, where there's hundreds of cars that go down every day, totally

491 residential. Only it's all incremental. Everybody's, you know, one or two extra trips, one or two extra trips. So
492 I can understand the neighbor's concerns. I guess one of the things that I have about the prior businesses
493 there, the Town did own that. I remember the Town owned that. We had...

494
495 JIM SMITH: Yeah, the School stored...

496
497 LARRY O'SULLIVAN: The School records were in there and then the ceiling collapsed and all kinds of wet stuff
498 happened and what have you.

499
500 JIM SMITH: Yeah.

501
502 LARRY O'SULLIVAN: So this is definitely something that has been a business in the past. And then the variance
503 was to turn, I had the impression it was turning the whole thing into a residence. Do you remember it that
504 way? Oh, you would remember it that way, Jim, right? 'Cause that was a while ago. That had to be ten years
505 ago.

506
507 JIM SMITH: Well, they remodeled it, it was just the front half of the building.

508
509 LARRY O'SULLIVAN: So all that back part...?

510
511 JIM SMITH: They never touched that part of it.

512
513 LARRY O'SULLIVAN: And now he's proposing to take care of the back part and fix up the front part. I see.

514
515 JIM SMITH: Yeah. It created a kind of a long, skinny apartment area.

516
517 LARRY O'SULLIVAN: Mm-hmm. Mm-hmm.

518
519 JIM SMITH: At best, it's a difficult building to do anything with.

520
521 LARRY O'SULLIVAN: So there's a two (2) bedroom apartment in the front. There's an office, or there's
522 potentially an office and a storage area in that building. Well, I can't see how this is gonna hurt at all. You
523 know, if you had a second family in there, they'd do as much driving in and out. And that's a potential there,
524 too.

525
526 JIM SMITH: Actually, by putting that office in, you're reducing the amount of storage area.

527
528 LARRY O'SULLIVAN: But it's still going to be some, but it's...

529
530 JIM SMITH: Yeah, there's still gonna be some. But it's gonna reduce that part of the...

531
532 LARRY O'SULLIVAN: Alright, well...Seems to me it's all a plus. Equal to or plus. Good for the neighborhood.
533 Better for the property values. Seems to me that it's a win-win.

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535 CHARLES SMITH: So you're telling me that if you turn it into a commercial property...

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JIM SMITH: Sir...

CHARLES SMITH: ...my values go down?

JIM SMITH: Sir, we've closed that part of the hearing. It's strictly just to the Board at this point, sir.

LARRY O'SULLIVAN: That's all I've got.

JIM SMITH: That you got. Jay? Comments?

JAY HOOLEY: With no outside storage, I mean, the traffic would be the only thing that would...

JIM SMITH: That you'd have a concern with.

JAY HOOLEY: Right.

JIM SMITH: Neil?

NEIL DUNN: I guess if he lived there, he'd go for a home office. But he doesn't live there, so that's a reality. And that whole area. We've gone down this, there's a lot of different things going on in that street. I definitely can feel for the neighbors saying "hey, we can't take anymore between everything else that's going on there," with apparently a tree business down the street and...or the logging and the...so I, you know, if it was a home business, a home occupation, I would say, you know, then it's something that would be allowed if he lived there, if it was a home occupation. But to reclassify it as a business, I think that whole area is pretty mixed up already. I don't see what we're really gaining. With the concerns of the neighborhood and, you know? I don't see where there's anything unique about it that makes it need to have that. It's kind of unique in the fact that it started as a business. That was probably back before some of the zoning was what it is now. The fact is that it did go back to residential. It's a very stressed area. To even put one more tractor trailer down, as they're saying, I don't think is fair to that road or the neighborhood, so I, you know, again, a home occupation I'd be good with. I'm having trouble with this where it's, you know, it's a tenant building and a business, is what it really boils down to.

LARRY O'SULLIVAN: Did he meet the five points? Where did he...

NEIL DUNN: Well, I'm not sure that the five points, when you...if you start in the very beginning, it will not be contrary to public interest because it was a business before? Well, I'm not sure that justifies that.

LARRY O'SULLIVAN: Skip down to the uniqueness part and how...well, not the uniqueness part, but the...what is it, part...the...

NEIL DUNN: The spirit, number two, is always the big one, the spirit of the ordinance.

LARRY O'SULLIVAN: There we go.

581 NEIL DUNN: "There will be no exterior changes to the residential building that would make it stand out to the
582 residential neighborhood." Well that's not the spirit. The spirit is to maintain that neighborhood thing and
583 you start pulling in trucks as opposed to a home occupation where you have an occasional car or something
584 come in and now you're kind of getting away from that spirit. In my opinion. And again, I mean, we all look at
585 it a little differently. And then the other thing is the unnecessary hardship means owing to special
586 conditions...I can see, I mean it was a business when it started, but it's not anymore. I mean, it is...it could be
587 whatever anybody wanted it to be if, you know, it is residential, if they want to go and gut it and make it a
588 house, they could do that. It would cost money, it would be prohibitive, but...I mean, that whole
589 neighborhood there, everything is kind of a strange building or lots. I mean, they're all different and especially
590 when you get down at the end where we've done other stuff. I just think it's such a confused area that to
591 send anymore trucks and to even have that opportunity to send trucks down there is not fair to the neighbors.

592
593 LARRY O'SULLIVAN: Okay, so where do you...where did you miss on that? The spirit...?

594
595 NEIL DUNN: The spirit of the ordinance, number two.

596
597 LARRY O'SULLIVAN: Okay, the way he responded was "there will be no exterior changes to the residential
598 building that would make it stand out any further in the residential neighborhood." Is that not sufficient for
599 you...

600
601 NEIL DUNN: No, because you...

602
603 LARRY O'SULLIVAN: ...to prove the spirit of the ordinance was observed?

604
605 NEIL DUNN: No. 'Cause the spirit of the ordinance is the traffic, the safety, the noise. All that stuff. It's not
606 just that one little...because it looks like a house, that it...

607
608 LARRY O'SULLIVAN: So you're saying it doesn't meet the spirit. Okay, that's item two.

609
610 NEIL DUNN: That would be my...

611
612 LARRY O'SULLIVAN: Jay? Jim? How do you feel about item two?

613
614 JIM SMITH: I think his argument is not very strong at best. "There will be no exterior changes to the
615 residen..." He's talking about what the building looks like.

616
617 LARRY O'SULLIVAN: Right.

618
619 JIM SMITH: He's not really addressing what the spirit of the ordinance is. What we're trying to do with the
620 ordinance. So I don't think it...his argument doesn't really address...

621
622 LARRY O'SULLIVAN: Okay, so we're gonna go to substantial justice. Let's see about that one. Jay, did you
623 have an input on that one?

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625 JAY HOOLEY: I think it would not at all hurt the adjoining properties if the physical façade is improved.

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LARRY O'SULLIVAN: Same here, but what we're talking about right now is...

JAY HOOLEY: The only question that [indistinct] is the traffic an issue? And that goes in the opposite [indistinct].

LARRY O'SULLIVAN: But let's take number two, the spirit of the ordinance. Was it observed, or is it observed with the way he's responded?

JAY HOOLEY: Well...

LARRY O'SULLIVAN: Well, he says no, he says no. I mean, right now, just on that basis, we don't have approval, because that's two to two.

JAY HOOLEY: Right.

LARRY O'SULLIVAN: And you need three. Okay. But I think what we are required to do is, let's go to substantial justice and do the same thing. "Due to nonconformity of this building already, we will strive to update the appearance of the concrete block building and will remove one of the two garage doors, giving the property more of a residential look in the process and helping it fit the neighborhood as best we can. Substantial justice, yes or no? Pass the criteria, yes or no?"

JIM SMITH: Actually, that argument answers question two better, to tell you the truth.

LARRY O'SULLIVAN: So you need to put them together, that's what we're trying to do, right?

JIM SMITH: Well, I mean, you need to...

LARRY O'SULLIVAN: You have to address all the points of law.

JIM SMITH: Right. I...

LARRY O'SULLIVAN: That's what my point is here, guys, that's why I'm attempting to go through this one at a time.

JAY HOOLEY: Right.

LARRY O'SULLIVAN: Do you feel comfortable with that then, Jim? Regarding substantial justice? And would that then make the spirit more acceptable with the same answer? 'Cause that's what his application says.

JIM SMITH: No. Well, okay, here's the way I would look at it. The answer to number three answers number two, but then he doesn't have a good answer for number three.

NEIL DUNN: I'm not sure if that really answers number two either, because the spirit, again, is getting back to the noise, the traffic, the impact on property values, the whole nine yards.

671

672 LARRY O'SULLIVAN: Mm-hmm.

673

674 NEIL DUNN: So, you could argue that made it, although property values is a separate item, so maybe I
675 shouldn't be bringing that up in the spirit.

676

677 LARRY O'SULLIVAN: Well, that's another way to...

678

679 NEIL DUNN: But if we're having trucks and stuff go down this stressed street that is undersized already, I don't
680 know how that's an observation of spirit of the ordinance. Again, if it was a home occupation, but it's not, it's
681 become a tenant building with a second tenant in there as a business. I think that's against the spirit and the
682 substantial justice...I don't see how that really talks to it.

683

684 LARRY O'SULLIVAN: Okay. What did you say on substantial justice, Jay?

685

686 JAY HOOLEY: Well, you've got a facility that was designed...

687

688 LARRY O'SULLIVAN: As a business...

689

690 JAY HOOLEY: ...as a commercial use.

691

692 LARRY O'SULLIVAN: Right.

693

694 JAY HOOLEY: That they've at least partially tried to convert to a more matching use...

695

696 LARRY O'SULLIVAN: That's why...

697

698 JAY HOOLEY: ...and intend to adjust the façade even further to accomplish that.

699

700 LARRY O'SULLIVAN: So you're fairly comfortable with it.

701

702 JAY HOOLEY: Again, the issue would be traffic. That's the piece where you...that's the counter side of the
703 argument.

704

705 LARRY O'SULLIVAN: yup.

706

707 JAY HOOLEY: And if there's some way to address that or limit that with some sort of restriction...

708

709 LARRY O'SULLIVAN: How about number four, values of surrounding properties not diminished? "The building
710 will still be comparable to how it is already impacting the neighborhood."

711

712 JAY HOOLEY: You know, if he can make it look better, then that should be fine. As long as you don't put even
713 more burden of traffic and trucks.

714

715 LARRY O'SULLIVAN: That's what he's said he's gonna do.

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JAY HOOLEY: Right.

LARRY O'SULLIVAN: Okay, how about you on four?

NEIL DUNN: Four, I don't think that values [indistinct]...I would [indistinct].

JIM SMITH: For value, I would think...

NEIL DUNN: But we have no guarantee that it's gonna...I'm sorry, Jim, that it would be finished.

LARRY O'SULLIVAN: You mean that he'll actually do what he says?

NEIL DUNN: Yup.

LARRY O'SULLIVAN: We can make it contingent.

NEIL DUNN: I'm just saying, though, and you know, and it's kind of a relative term, but go ahead.

LARRY O'SULLIVAN: We can always make it contingent, based on the input as presented, "we expect to see blah, blah, blah," whatever it was on the front of the building. And then we have the tough ones.

NEIL DUNN: I'm sorry, Jim. I think Jim was gonna say something.


LARRY O'SULLIVAN: Literal enforcement of the provisions would result in unnecessary hardship. For purposes of this subparagraph, unnecessary hardship means that owing to special conditions of the property...that's what I was trying to get to, that on the uniqueness...special conditions of the property that distinguish it from other properties in the area, no fair and substantial relationship exists between the general public purposes of the ordinance provision and the special application of that provision to the property. And "The building as it exists," he writes, "currently was constructed for business use and is already not conducive to a single family residence." And then the (B) part of that, or the second part of that is the proposed use is a reasonable one. "This building in its current state would not be able to be sold as a single family residential home. There have been previous variances on the property for business offices and storage facilities." Okay, so where I was going with this is, okay, so he converts the other half of the building into a residence because he can. He doesn't have to come here for it. And how many drives in and out of there are you gonna have? Equal to...you might not have the eighteen wheelers to a residence, but there's certainly gonna be more in and out driving, traffic. So the eighteen wheeler is gonna be an issue. And then there's no real answer for number (B), 'cause he didn't have to do that for the (B) part. So, where I sat with this, where I still sit with this, is that this isn't significantly different than the uses that it's had in the past. This isn't significantly going to impact any of the traffic for any other potential use that they could use on this property 'cause just putting in a second family is going to add at least as many drives that you're gonna have with this business, in my opinion.

JIM SMITH: Before you go too far with that, what's the acreage on this lot?

LARRY O'SULLIVAN: I don't have it.

761
762 NEIL DUNN: Jaye has it.
763
764 JAYE TROTTIER: Point nine one-o (.910).
765
766 LARRY O'SULLIVAN: Less than an acre, yeah.
767
768 JIM SMITH: So that precludes a duplex. We wouldn't have the acreage for a duplex.
769
770 LARRY O'SULLIVAN: Is that right?
771
772 RICHARD CANUEL: That's right.
773
774 LARRY O'SULLIVAN: I see. Unless he had...
775
776 JIM SMITH: So the most it could be would be a single family house. That's it's maximum residential use.
777
778 LARRY O'SULLIVAN: Okay, so I stand corrected.
779
780 JIM SMITH: The only other possibility would be an accessory apartment, but that's not what we're talking
781 about.
782
783 LARRY O'SULLIVAN: I see. So we have problems with two different sections and two of you have it. Are
784 those...does that add up right? You have a problem with one of them? Neil has a problem with one of them?
785
786 NEIL DUNN: I have two and five also because his statement that it wouldn't be..."the current building cannot
787 be...is not conducive to a single family residence," it was bought this year by him as a single family residence.
788
789 LARRY O'SULLIVAN: Mm-hmm.
790
791 NEIL DUNN: I mean, that's what it is. It might not be, you know, could probably use some renovation or
792 whatever, but it is what it is.
793
794 LARRY O'SULLIVAN: Well, I'm gonna....are we done?
795
796 JIM SMITH: Unless anybody else has got any comment.
797
798 LARRY O'SULLIVAN: You ready for the first throw up?
799
800 JIM SMITH: Sure, why not?
801
802 LARRY O'SULLIVAN: I make motion to approve...let's see, which one is it...?
803
804 NEIL DUNN: 3/21/20...
805

806 LARRY O'SULLIVAN: ...3/21/2012-3 with the requirement that we have no additional parking on the lot of any
807 trucks, that we have the upgrades to the...the changes that were requested, yeah, that were mentioned,
808 about cultured stone and finishing up the properties in the front and the lower part of the building to cover up
809 the stones or the...
810
811 NEIL DUNN: Cinder blocks.
812
813 LARRY O'SULLIVAN: ...cinder block, thank you, that the exterior changes to make it look more residential
814 happen within the first six (6) months of the zoning approval, and that the business be run by appointment
815 only. And that's it. Do you have a second?
816
817 JIM SMITH: Do we have a second?
818
819 JAY HOOLEY: I'll second it for discussion.
820
821 LARRY O'SULLIVAN: For discussion? Okay. What would you add?
822
823 JAY HOOLEY: It's by appointment only, what are the deliveries? The truck traffic.
824
825 LARRY O'SULLIVAN: What about it?
826
827 JAY HOOLEY: Any limitation? Any restriction or...? I mean, that, to me, is the only piece of this that could go
828 where there is a detrimental...
829
830 LARRY O'SULLIVAN: I don't know how that anyone would monitor it. I mean, if they can't get policemen to
831 come on the street now, I mean, who's gonna do it? Okay, so how do you do that then? Or is that enough to
832 say that you can't, you know, support my motion because of that issue?
833
834 JAY HOOLEY: I'm simply thinking that if we could somehow find a way to address that, it would certainly make
835 me more comfortable.
836
837 LARRY O'SULLIVAN: Find a way to address the...
838
839 JAY HOOLEY: That we not create any...
840
841 LARRY O'SULLIVAN: Additional...
842
843 JAY HOOLEY: ...undo. I mean, yeah, if they put two (2) more bedrooms, they could move three more people
844 in there and they'd all have a car, so we're not talking about two (2) trips a day, but those folks wouldn't be (a)
845 eighteen wheelers...
846
847 LARRY O'SULLIVAN: Yeah, I know.
848
849 JAY HOOLEY: ...and (b) making multiple drops at any given time. They'd likely be in sedans and such and in
850 and out a few times a day. In other words, if the residential occupancy were expanded into the rest of it as a

851 single but with a large family, you'd certainly have trips, but they'd be passenger vehicle trips.
852
853 LARRY O'SULLIVAN: Mm-hmm. Do you have any comments on that? The motion? Since it's been seconded,
854 we're gonna go to a vote, so I'd rather have your comments than...
855
856 NEIL DUNN: No, I think...
857
858 LARRY O'SULLIVAN: You just don't buy it because it doesn't hit the two points of the criteria.
859
860 NEIL DUNN: It doesn't hit the two points and the area is stressed enough.
861
862 LARRY O'SULLIVAN: Okay. Jim, same vote?
863
864 JIM SMITH: Same thing.
865
866 LARRY O'SULLIVAN: Okay, so then we ought to bring it to a vote. That way it goes down and shoots down and
867 the end of the subject, okay? Okay.
868
869 JIM SMITH: All those in favor?
870
871 LARRY O'SULLIVAN: Aye.
872
873 JAY HOOLEY: Aye.
874
875 JIM SMITH: All those opposed?
876
877 NEIL DUNN: Aye.
878
879 LARRY O'SULLIVAN: Motion fails.
880
881 JIM SMITH: Me...
882
883 LARRY O'SULLIVAN: I'm sorry, the variance fails. Motion [indistinct].
884
885 RESULT: THE MOTION TO GRANT CASE NO. 3/21/2012-3 WITH RESTRICTIONS FAILED, 2-2-0.
886
887
888 RESPECTFULLY SUBMITTED,
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890 
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893 NEIL DUNN, CLERK
894 TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

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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.