

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

DATE: JULY 20, 2011

CASE NO.: 7/20/2011-3

APPLICANT: LOUIS G. JR. & SUSAN B. COLTEY  
52 CLARK ROAD  
LONDONDERRY, NH 03053

LOCATION: 52 CLARK ROAD; 15-97; AR -I

BOARD MEMBERS PRESENT: MATT NEUMAN, CHAIR  
JIM SMITH, VOTING MEMBER  
LARRY O'SULLIVAN, VOTING MEMBER  
MICHAEL GALLAGHER, NON-VOTING ALTERNATE  
JAY HOOLEY, VOTING ALTERNATE  
NEIL DUNN, CLERK

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

REQUEST: VARIANCE TO ALLOW AN I-II USE (MOTOR VEHICLE MAINTENANCE, MAJOR REPAIR & PAINTING) IN THE AR -I DISTRICT WHERE OTHERWISE NOT PERMITTED BY SECTION 2.2, TABLE OF USES; AND CONCURRENTLY REQUEST A VARIANCE TO ALLOW AN I-II USE IN THE I-I DISTRICT WHERE OTHERWISE NOT PERMITTED BY SECTION 2.5.1.2.1/SECTION 2.2, TABLE OF USES, PENDING TOWN COUNCIL APPROVAL OF A ZONE CHANGE FROM AR -I TO I-I.

PRESENTATION: CASE NO. 7/20/2011-3 WAS READ INTO THE RECORD WITH ONE PREVIOUS CASE LISTED.

MATT NEUMAN: Come forward.

TODD CONNORS: Mr. Chairman, members of the Board, my name is Todd Connors from Long Beach Development. I'm here tonight representing both the applicant and the owner. The owners as represented are the Colteys and the applicant in this case is Mr. Harold Little from Heritage Truck and Automotive. Mr. Little has an agreement to purchase the land from the Colteys and construct a project on the parcel of land. I want to, for a moment, just discuss the notification as it was read into the record. This property was previously zoned AR-I. It has been for a long time. And as part of our work on this project, we've met with the Town staff. We were directed to have a meeting with the Planning Board where they reviewed our concept

44 for the development, as well as a rezoning hearing with the Planning Board. The Planning Board voted to  
45 support rezoning the parcel from AR-I to I-I and that was forwarded to the Town Council. They held a hearing  
46 on July 11 and unanimously voted to rezone the parcel. We made application prior to that hearing by the  
47 Town Council, so we made application for a variance for our I-II use, whether it was AR-I or had been recently  
48 changed to I-I, we wanted to make sure both were referred to in the notice. So I want to clarify for you that  
49 tonight we intend to argue in favor of a variance being granted to Section 2.5.1.2.1 and we are not arguing for  
50 a variance on 2.3.1.2. Is everyone clear on the point that I just tried to make? And Rich, did I get that good?

51  
52 RICHARD CANUEL: I'm checking that now.

53  
54 MATT NEUMAN: Neil, do you have a question?

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56 RICHARD CANUEL: Yeah, you got that right, yeah.

57  
58 NEIL DUNN: So you're saying because it is now a C-I...

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60 TODD CONNORS: It is now I-I.

61  
62 NEIL DUNN: Excuse me, an I-I...

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64 MATT NEUMAN: It is no longer AR-I.

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66 TODD CONNORS: It was AR-I on the day of our application and it has been rezoned as of July 11. It is now I-I.

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68 NEIL DUNN: And if you were...just a general one...I know you're probably gonna...

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70 TODD CONNORS: Sure.

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72 NEIL DUNN: Why did we go in front of the Board and ask for the dashed II as opposed to the dash I?

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74 TODD CONNORS: I'll explain that and that's one of the reasons why we met with the staff ahead of time. This  
75 area and the properties surrounding us are zoned I-I. It was felt that if we were to request a zoning to I-II, we  
76 would be spot zoning the area. The Master Plan calls for this area to be zoned I-I and the Planning staff felt  
77 uncomfortable recommending an I-II. Although they seemed supportive of our concept at the Planning Board  
78 hearing, they did not feel it was appropriate to formally rezone this piece. I think they thought it more  
79 appropriate that if our specific use met the criteria for a zoning variance, then it would be okay in this location,  
80 however they did not want to open up this location to any use that is permitted in an I-II zone. And hopefully,  
81 through my application, my presentation tonight, I can explain why we're special. Is everybody clear on what  
82 we're arguing?

83  
84 MATT NEUMAN: I think we are if you wanna just go ahead with the application.

85  
86 TODD CONNORS: Okay. I have an exhibit in front of you and it was part of our application package, so no  
87 doubt you have it up there or you've already seen something that looks like this. This parcel of land is eight

88 point five (8.5) acres in size. It is identified on map 15 as lot 97 and it has a street address of 52 Clark Road. It  
89 also has frontage along Jack's Bridge Road. If you look at the exhibit that I have on the Board, it's a pork chop  
90 shaped lot and you can see that I have drawn a line that divides it into a larger piece and a smaller piece. It is  
91 currently one single pork chop shape piece of land. Our intention, if we're successful in front of your Board, is  
92 to go to the Planning Board where we will subdivide this formally. We'll end up with a five and a half (5.5)  
93 acre parcel and a smaller one of two point nine (2.9), almost three (3) acres. The variance request tonight is  
94 specific to the smaller of the two pieces that are shown there. The two point nine (2.9) acre parcel, which I  
95 have taken the liberty of labeling lot 97-1, is the parcel upon which we hope to build our project. So I don't  
96 know how you do it normally, but we are asking for the variance on that part of the lot, not necessarily the  
97 whole parcel. I assume you would make it subject to Planning and all that sort of thing. The proposal that we  
98 have, and I'm gonna slip the sheet just so you can see the smaller piece a little bit.

99  
100 NEIL DUNN: You were calling that 97-1. Thank you.

101  
102 TODD CONNORS: That is what the plan has labeled it as, yes. I don't know if the Assessor would agree with  
103 me but that's what we've done at this point. Our proposal, following the subdivision of the property, is to  
104 present a site plan application to the Planning Board. We have generated this exhibit here as a point of  
105 reference. It's our intention to pursue a use on this property...just bear with me for one second, please. I'm  
106 sorry. Thank you. It's our intention to pursue a use on this property that would allow for the repair and  
107 repainting of vehicles and trucks. The business Heritage Truck and Automotive is currently located at 226  
108 Rockingham Road. It's in the large brick building that has Harold Square. They occupy a large portion of that  
109 building, mostly towards the back, and what their shop does is they do your general maintenance on cars and  
110 trucks specifically. They also have large industrial sized paint booths and sandblasting equipment so that they  
111 can actually refinish large size vehicles; tractor trailers, the trailers that the tractors pull, campers. All sorts of  
112 very large vehicles that a normal repainting place would not be able to handle. Our plan shows that on the  
113 two point nine (2.9) acre piece, we would construct a building with an eighteen thousand (18,000) square foot  
114 footprint and a second building with a two thousand four hundred square foot footprint. This is a concept and  
115 it's still gonna change a little bit by the time we get to the Planning Board. As of right now, we actually don't  
116 intend to pursue the twenty four hundred (2,400) square foot building. That operation we would actually  
117 prefer to stick in the larger building. So this is a general concept of how we would lay out the site. Building  
118 kind of centrally located. We would have some employee parking up along the front of the parcel. And then  
119 on the left hand side, we would have larger parking spaces for vehicles that have either recently been repaired  
120 or are waiting for their turn inside the shop to be repaired. There would be no storage of bulk equipment or  
121 spare parts or broken vehicles on the site. Anything that would be parked there would be something that  
122 would be worked on. I have also not shown any topography, grading, utility improvements, landscaping plans.  
123 Those are all things that we would prepare as part of our site plan application. If you have questions with  
124 regard to those items, I can discuss what our thought process is, but we have not generated a plan for those  
125 specific items at this point in time. Unless there are questions on my general concept and what we propose to  
126 do on the lot, I'm prepared to read the five criteria and answer any zoning type questions that you might have.

127  
128 MATT NEUMAN: Yeah, I think it would probably be beneficial for you to go through that.

129  
130 TODD CONNORS: Okay. Item number one, the variance will not be contrary to the public interest. The  
131 proposed vehicle repair use does not adversely affect the public interest because it does not alter the

132 character of the neighborhood. The access road is already used by a mix of light and heavy vehicles traveling  
133 to and from businesses and would not place additional burdens on the neighborhood. This parcel of land, as I  
134 mentioned, has access from Clark Road and Jack's Bridge Road. Jack's Bridge Road is essentially an industrial  
135 type of a road. It serves Harvey trucks, Penske trucks, the new bus station, Coca-Cola. There are no  
136 residential homes off of Jack's Bridge Road. This two point nine (2.9) acre piece of the whole would entirely  
137 front on Jack's Bridge. It would have no frontage on Clark. So in my explanation, I'm referring to the character  
138 of the neighborhood along Jack's Bridge Road, which is very industrial. It's populated with businesses that are  
139 either trucking or have a very heavy trucking component to them. We also have two (2) repair facilities on the  
140 road. The State of New Hampshire has their bus maintenance facility on Jack's Bridge Road or Symmes right  
141 there. And Penske, I understand, also does some maintenance on their vehicles at their property, although  
142 that's not their primary use. Number two, the spirit of the ordinance is observed. The current zoning district  
143 of AR-I supports residential development. The pending change, or in this case, the change to I-I, allows for  
144 industrial uses appropriate and close proximity to non-industrial development. The Master Plan is for all  
145 abutting parcels to be developed under the I-I district, which is existing on three (3) sides of the current parcel.  
146 Currently, the I-I zone is across Jack's Bridge Road from us, all the way to the right all the way to the left. This  
147 side of us here is owned by Coca-Cola and that is all Industrial-I. Across Clark Road in this area is all Industrial-  
148 I. There are two (2) parcels of land here that have residential homes on them. Those remain in the AR-I zone.  
149 The Master Plan is for them to eventually move to the I-I zone.

150  
151 LARRY O'SULLIVAN: Are you requesting I-I?

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153 TODD CONNORS: I'm requesting a variance to allow an I-II use in an I-I zone.

154  
155 [overlapping comments]

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157 LARRY O'SULLIVAN: Okay, but you're describing [indistinct] I-I.

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159 TODD CONNORS: I was just trying to give you a feel for which parcels...I'm trying to answer the spirit of the  
160 ordinance. I'm getting there, how about that? Bear with me for just a second. The proposed use will include  
161 the parking of vehicles outside of the building but all work will be completed within the structure. Enclosing  
162 all of the work and storage areas will limit the visual and audio impacts of the proposed use to a level that is  
163 compatible with an I-I use. Furthermore, the parcel is located approximately five hundred (500) feet away and  
164 through wooded buffers to the two closest residential properties. There will not be any industrial traffic  
165 across the frontage of any residential properties on Clark Road. The spirit of the ordinance, in this particular  
166 case, I-I uses are industrial uses that are suitable for close proximity to residential or the ordinance says "non-  
167 industrial" properties. This particular project is surrounded by I-I, not surrounded by residential or non-  
168 industrial, so the point that I'm trying to make is the spirit of the ordinance is an I-I...

169  
170 [technician inserts new CD]

171  
172 TODD CONNORS: [regarding substantial justice]...use. The proposed use is similar and complimentary to  
173 others in the neighborhood where truck traffic and repair facilities already exist. What I'm trying to really say  
174 here, which is somewhat difficult, it's an injustice if there is no additional benefit to the general public. And I  
175 don't believe that the granting of this variance or the denial of this variance would have an additional benefit

176 to the general public. Therefore there's an injustice that can be corrected. Item number four, the values of  
177 surrounding properties are not diminished. Impacts from the proposed use are limited by a facility designed  
178 to contain all work and storage areas, wooded buffers between the industrial development and residential use  
179 and landscape requirements between abutting businesses. The proposed project will be an expansion of the  
180 industrial development in the neighborhood as contemplated by the Master Plan. Property values will not be  
181 diminished by the use of the property as proposed. The property is fairly well placed away from residential  
182 neighbors. As I mentioned earlier, there's about five hundred (500) feet from this parcel to the nearest  
183 residential property. Most of that land is wooded. The Coke property that surrounds two (2) sides of this  
184 proposed project is separated from their main facility by a power line easement. It remains wooded. Item  
185 number five. Literal enforcement of the provisions of this ordinance would result in an unnecessary hardship.  
186 Item (A). For purposes of this paragraph, unnecessary hardship means that owing to the special conditions of  
187 the property that distinguish it from other properties in the area...item (i). No fair and substantial relationship  
188 exists between the general public provisions of the ordinance provision and the specific application of that  
189 provision to the property. The purpose of limiting uses within districts as laid out in the zoning ordinance as a  
190 matter of compatibility between land uses. The special condition of this property relates to its setting  
191 surrounded on three (3) sides by industrial zone with a singular frontage on a road serving industrial  
192 properties. The neighborhood is also developed with truck intensive uses that include two (2) repair facilities  
193 along the roadway. Strict application of the ordinance in this case is unnecessary given that this use will be  
194 enclosed within a building to mitigate the normal impacts on the senses of sight, sound, and smell from uses  
195 found in the I-II zone. The goals of the ordinance are not advanced in any fair and substantial way by  
196 prohibiting this use in this specific location. Therefore, strict application of the ordinances creates an  
197 unnecessary hardship. Item (ii). The proposed use is a reasonable one. The proposed use is reasonable  
198 because it will not alter the character of the surrounding neighborhood. The property is located in an  
199 industrial area with a road that provides access only between industrial properties and New Hampshire Route  
200 28 and close proximity to I-93. Surrounding uses include manufacturing, heavy trucking, truck lease and repair  
201 and a bus repair facility, all of which are similar in their level of impact on surrounding property. Mr.  
202 Chairman, those are the five criteria that we have submitted with our application. I don't have any further  
203 items that I would prefer to present and I'm happy to answer any questions the Board might have.

204  
205 MATT NEUMAN: Okay. Questions from the Board?

206  
207 NEIL DUNN: Who did you say the bus repair company was?

208  
209 TODD CONNORS: It's the State of New Hampshire. Behind the bus station are two (2) large green buildings  
210 where they do bus maintenance work, repair work.

211  
212 LARRY O'SULLIVAN: I think we have this specifically listed in our zoning as an I-II, Industrial-II. And we have,  
213 like the bus repair and things like that, as Industrial-I. So that's a reasonable use in Industrial-I.

214  
215  
216 NEIL DUNN: Well, that's why I...

217  
218 LARRY O'SULLIVAN: Mr. Connor, you seem to be leaning to the point that we have an industrial area and you  
219 kind of lumped Industrial-I and Industrial-II in the same thing. I mean, we consider these to be separate

220 entities, separate descriptions, separate extensions of how heavily used it is, what it does, potentially, to the  
221 environment. The requirements that we have for any of the buffers around and the like. So we make a  
222 distinction in our town between an Industrial-I and Industrial-II. If you lump them together like that, it's not  
223 what we try to do here. We're trying to, specifically in the plans, in our ordinances, make sure that we  
224 understand what those uses are. So we have not a lot of choices with saying, you know, this is an industrial  
225 use and you've got one down the street that's just like it because it's not like it. These are Industrial-I and  
226 they're approved uses in Industrial-I.

227  
228 TODD CONNORS: If I could respond to your question...

229  
230 LARRY O'SULLIVAN: Please.

231  
232 TODD CONNORS: It wasn't my intention to lump them so much as it may have appeared in my presentation.  
233 What I was trying to point out is that the goal of establishing separate districts is compatibility of abutting  
234 uses. Specifically, the I-I is an industrial zone that is intended to be compatible when it abuts non-industrial  
235 properties. The point that I was trying to make about this particular, specific parcel....

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237 LARRY O'SULLIVAN: It's less intense. Yeah.

238  
239 TODD CONNORS: ...is that it is, in fact, surrounded by industrial properties. So it bridges the gap out of an I-I  
240 in our opinion because it's surrounded by Industrial-I industrial uses, whereas the I-I district specifically is for  
241 industrial uses adjacent to residential. So the point I was trying to make there is that the parcel, by its  
242 surroundings, is suitable for I-II. I wasn't suggesting that they were the same. In my references to the  
243 neighborhood, what I was trying to do is characterize for you what Jack's Bridge Road is, what's along the way.  
244 There are no residential homes there. There are repair stations. One is the State of New Hampshire. I don't  
245 know that bus repair is acceptable in any of your districts, but I do know that the State of New Hampshire  
246 doesn't really care. And they didn't come here for a variance. Penske Truck is a leasing facility. They do some  
247 repairs but their primary business is leasing trucks, so they would not have had to come here either. What I  
248 was trying to point out is that we're not going to lower property values because that use already exists in the  
249 neighborhood and I was also trying to suggest that...sorry, let me refer to my notes...I was also trying to  
250 address a couple of the other points such that as it relates to our surrounding by industrial zoned properties,  
251 substantial justice can be done in this case because that injustice that we are, in fact, not abutting an non-  
252 industrial area can be corrected. I was also trying to point out that I didn't see that there would be anything  
253 contrary to the public interest because this neighborhood already has a lot of trucking type facilities and  
254 traffic, whether it's materials and product coming out of Coca-Cola or Harvey Road. They run a lot of trucks  
255 through there, whether it's Penske coming and going or somebody getting something fixed at the bus station,  
256 this area has a lot of that kind of use. Very compatible with what we're proposing, which is essentially a truck  
257 repair facility. Truck repainting and repair. So our traffic would be similar. The viewscape from the street  
258 would essentially be similar to other properties. You'd have a nicely appointed building, the landscaping that  
259 is generally required by the Planning Board, and you would see trucks parked and trucks coming and going.  
260 You would not see old bumpers and tires piled outside the building. That's not the type of facility that's  
261 proposed. That's not something that the Planning Board would look favorably on. I hope I answered your  
262 question.

264 MATT NEUMAN: Who's the large abutter right to the south of...?

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266 TODD CONNORS: The abutter on this side, you mean, here?

267  
268 MATT NEUMAN: Yup.

269  
270 TODD CONNORS: That is the Coca-Cola bottling plant. It previously was part of the AR-I zone and I believe  
271 was part of a parcel fronted on Clark Road, however the GIS currently shows it and Coke has been...it's been  
272 subdivided and added to their parcel and rezoned.

273  
274 LARRY O'SULLIVAN: The maps I've been looking at have a large area of Industrial-II zoned property on the  
275 other side of the highway, not very far away.

276  
277 MATT NEUMAN: Mm-hmm.

278  
279 LARRY O'SULLIVAN: Large undeveloped sections of I-II, so I don't understand why the...especially making a  
280 large lot where it may be more acceptable to put an extensive or intensive use and making it smaller. I'm  
281 having a tough time with that.

282  
283 TODD CONNORS: The only reason we're making it smaller is that we don't need eight and a half (8.5) acres of  
284 land to create and construct this facility. We need about three (3) acres. The idea was to subdivide the land,  
285 leave the larger parcel with the house that's currently on it that the Colteys live in and at some point in the  
286 future, that would be developed as another industrial use. We just don't need the excess land. This parcel,  
287 you can see from my other plan, there's some large area to the south, to the right hand side of the pavement.  
288 That's an area that is suitable in size for all of the drainage facilities that will be necessary; ponds and  
289 treatment areas. We just don't need any more land than this to build this facility. And that's why it's on the  
290 smaller piece.

291  
292 LARRY O'SULLIVAN: We just had a five (5) acre piece come up here in the same area where, what was it, an  
293 eighteen (18) foot or a twenty eight (28) foot, I forget how long these trucks have to be that back into these  
294 places, couldn't fit, so they needed variances on one side, they needed variances on the other side and to me,  
295 that's what you're doing is...I know everybody wants to put five pounds of what have you in a one pound bag,  
296 but at the same time, you know, this is at the point where, in my opinion that you're asking for an intensive  
297 use, a more intensive use, than an I-I zone in a smaller piece of land. In a soon-to-be-subdivided land, area,  
298 right?

299  
300 TODD CONNORS: I guess the only response that I have to that is...

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302 LARRY O'SULLIVAN: You don't need it.

303  
304 TODD CONNORS: ...you know, we can turn trucks in and all the way through the site. We have no need for  
305 backing up and problems like that. And we're buying an eight and a half (8.5) acre parcel. If we needed four  
306 (4) acres to do this, we would draw the line so that we had four (4) acres. We don't need more than three (3).  
307 It would just sit as excess land on the side. We actually don't need the full three (3). I think you can see that

308 along the bottom of the plan, the dashed lines refer to some of the setbacks, building setbacks and green  
309 space setbacks and our pavement line, the solid line above it, doesn't even extend down to that. I have an  
310 additional fifty (50) or so feet there that we could use if we needed to. But we just don't need the extra land.

311  
312 LARRY O'SULLIVAN: I see.

313  
314 JAY HOOLEY: If memory serves, the one that you're probably referring to up on Rockingham Road was, I think,  
315 once had a house and a garage and it was piecemealed out of multiple buildings...

316  
317 LARRY O'SULLIVAN: No.

318  
319 MATT NEUMAN: No.

320  
321 LARRY O'SULLIVAN: It's a different one. This was on Jack's Bridge [indistinct]...

322  
323 MICHAEL GALLAGHER: Yeah, we had [indistinct].

324  
325 JIM SMITH: Didn't that have wetlands issues, though?

326  
327 MATT NEUMAN: Yeah, and it had some other unique...

328  
329 LARRY O'SULLIVAN: But the issue still that, you know, that everybody wants to put...

330  
331 MATT NEUMAN: Right.

332  
333 LARRY O'SULLIVAN: ...as big a building as they can in as small a lot as they can. So, it looked to me as if that's  
334 what this already was headed towards 'cause it's smaller than other vehicle repair shops that are around that  
335 have five (5) acres or six (6) acres of land and they can't fit, you know the twenty (20) foot trucks or whatever  
336 they are that...you know, they can't make a U-turn, they can't get around a hill. You know, it's just something  
337 to anticipate.

338  
339 NEIL DUNN: When did you say it was rezoned legally or officially?

340  
341 TODD CONNORS: Officially, the Town Council took a vote on July 11<sup>th</sup>.

342  
343 NEIL DUNN: Of this month?

344  
345 TODD CONNORS: Yes, this month.

346  
347 NEIL DUNN: You confirmed that, Richard?

348  
349 LARRY O'SULLIVAN: What, you missed it?

350  
351 NEIL DUNN: I must have been out of town.



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MATT NEUMAN: Any other questions from the Board? No?

LARRY O'SULLIVAN: Not now. I think our Master Plan is very specific about the I-I district versus an I-II district, so I don't mean to hammer this, I mean to understand it. You're saying that the I-II use that's proposed is really differentiated from the I-I uses based on neighboring lots.

TODD CONNORS: Correct. I am suggesting to you that an I-II use would be acceptable here because it does not directly abut non-industrial land, which is in the description of the I-I zone.

MATT NEUMAN: Except for the fact that the remaining parcel that's being, and the subdivision, is gonna remain a residence?

TODD CONNORS: We may or may not keep the house, but we own the land or we will own the land, Heritage Truck will and it has been rezoned so it is I-I where the house is currently shown.

LARRY O'SULLIVAN: Mm-hmm.

MATT NEUMAN: Right, but it's I-I with a residence on it.

TODD CONNORS: It's I-I with a residence on it that we own and we have no intention of selling the house to somebody. We're hoping to sell this for an industrial use, to be perfectly honest. Or use it down the road for an expansion of our own use. I guess the other point that I was also trying to make relative to this I-II use in this location was that the entire repair facility is enclosed. There's no work that happens outside of the building. We have sandblasting equipment and painting equipment and all of that stuff is inside, as you may or may not be aware, those kinds of facilities have compressors and air guns and what not. There is a room inside the building that would house that equipment. A lot of times they put that outside of the building. In this case, it would be entirely inside the building. There would just not be very many of the impacts that you would expect in an I-II use visually, sound, smell. Everything is controlled inside the building so that all of that is limited.

JIM SMITH: Would they have ventilation fans similar to where they have in their present location? On the outside of the building?

TODD CONNORS: By ventilation fans, are you referring to, like, compressor units and things like that?

JIM SMITH: No. Regarding the painting operation.

TODD CONNORS: For the record, this is Harold Little from Heritage Truck and Automotive.

HAROLD LITTLE: Yes, thank you. I run a first class operation. My establishment right now that we developed back in 1997 I've grown out of. We have a restaurant in our building, okay? That's how well it's engineered, so, I mean, we would put together a really nice facility.

396 JIM SMITH: Okay, you know the fans I'm talking about? On the side of the building?  
397  
398 HAROLD LITTLE: Yeah, the exhaust fans?  
399  
400 JIM SMITH: Right.  
401  
402 HAROLD LITTLE: Yes.  
403  
404 JIM SMITH: Would this facility have similar fans?  
405  
406 HAROLD LITTLE: Oh yes. They'd be the same ones that are in the building now. I would move them and we'd  
407 also probably add some more. And they're top shelf. When I built this building, I researched every spray  
408 booth company in the world. It took about eight (8) months. And I bought the best. So, it's really nice stuff.  
409  
410 TODD CONNORS: I think as it relates to our compatibility in this location, you could certainly drive by the  
411 current Heritage Truck facility. It's right next to Harold Square. As Harold mentioned, there's a restaurant in  
412 the building that he doesn't own. There are other abutting uses; there's a residence to one side of us and it's  
413 quite tight if you drive over there. There's parking, there's not access around all four (4) sides of the building.  
414 You would imagine that it would be much more difficult to use his current facility which is located on  
415 Rockingham Road in a commercial zone. It fits pretty well there. We would prefer to move it off the main  
416 drag and we thought that this location was a suitable one for us and that's why we pursued this location.  
417  
418 MATT NEUMAN: What's the size of the building again?  
419  
420 TODD CONNORS: The proposed or his current?  
421  
422 MATT NEUMAN: Proposed. Proposed.  
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424 TODD CONNORS: The footprint of the large building is eighteen thousand (18,000) square feet. There would  
425 be some mezzanine space in there. I've also shown a second, smaller building. That's not going to be part of  
426 the project. So right now, I would tell you that we're proposing a building of eighteen thousand (18,000)  
427 square feet in footprint.  
428  
429 HAROLD LITTLE: Possible twenty (20).  
430  
431 TODD CONNORS: Well, I wasn't including the mezzanine, were you?  
432  
433 HAROLD LITTLE: Well, where the smaller building is, I'm thinking about just getting rid of that part of it and  
434 incorporating one (1) more bay onto the end which would give us approximately twenty thousand (20,000)  
435 square feet with my mezzanine space. You know, give or take, it may change. It may go back to eighteen (18),  
436 so...  
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438 MATT NEUMAN: Okay.

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NEIL DUNN: Did you get a variance for your current location?

HAROLD LITTLE: Where I am now?

NEIL DUNN: Yup.

HAROLD LITTLE: That was fifteen (15) years ago so I grew out of it thirteen (13) years ago. So it's been a struggle for me, you know, with the type of work we do, you know, and I'm just looking to expand and relocate. I've been in the area for all this time. I really love Londonderry and I'd like to stay here and I feel this sight is very, very nice and suitable for us, you know? So...

MATT NEUMAN: Any other questions from the Board? Anyone who'd like to come forth from the public to talk either in favor or opposition to the request, the variance? Any questions? Seeing none, we'll come back to the Board. Any other questions before we pull back to deliberations. Neil?

NEIL DUNN: Maybe, Richard, you can help me with this. I know that if the Town approved it July 11<sup>th</sup>, a week ago, why was there not more consideration as C-II? It seems to me to get past the intent of the ordinance, if it was recently passed on July 11<sup>th</sup> and we're gonna give a...

LARRY O'SULLIVAN: A more intensive use.

NEIL DUNN: It just seems a little crazy. Any feedback on why they didn't look at the C-II, other than they wanted a C-I?

RICHARD CANUEL: You're talking Industrial-II.

NEIL DUNN: I'm sorry, excuse me, Industrial-II. I apologize.

RICHARD CANUEL: Well, that was the issue. If you look at the location where that parcel is, where it's completely surrounded pretty much by Industrial-I zone, that would essentially have been a spot zoning situation where by zoning that industrial-II, that would have put it completely incompatible with the surrounding properties. And we did discuss that originally when Todd first came in, both myself and our Town Planner and our Town Engineer. And what it came down to was it made more sense to rezone that parcel to a zoning district that was compatible with the surrounding properties and then request a variance to allow the I-II use there. Simply because even though the I-II use is set aside for more intensive uses than what's allowed in the I-I district, it's something that would have been compatible with what's happening there in that neighborhood now.

NEIL DUNN: Prior to July 11<sup>th</sup>...what changed July 11<sup>th</sup>? Only this lot or the whole surrounding area? Wasn't it the whole...a good chunk down there?

RICHARD CANUEL: No, that entire parcel around this lot was already I-I.

483 NEIL DUNN: So only this lot was left or...?  
484  
485 RICHARD CANUEL: Yes. Yup, that's it.  
486  
487 JIM SMITH: You got two (2) lots above it.  
488  
489 RICHARD CANUEL: Well, actually, there's two (2) lots there, yeah. They were kind of just stuck in the middle  
490 that remains as AR-I zone.  
491  
492 NEIL DUNN: And so did they change those other two on July 11<sup>th</sup>?  
493  
494 RICHARD CANUEL: Yes, yup.  
495  
496 NEIL DUNN: And they...okay. So that's why they went to I, Industrial-I as opposed to Industrial-II?  
497  
498 RICHARD CANUEL: That's right. Yes, just to be compatible with those other properties.  
499  
500 NEIL DUNN: Okay.  
501  
502 MATT NEUMAN: Any other questions before we pull it back? And, for the record, Jay Hooley will be a voting  
503 alternate on this one. Alright, we're gonna pull it back for deliberations.  
504  
505 DELIBERATIONS:  
506  
507 LARRY O'SULLIVAN: I think I hit on the major point about the differentiation between an I-I and an I-II and I  
508 think he's described it a couple of different ways to my satisfaction that that is probably a closer fit and the  
509 better way to get that parcel on the tax base. And it won't be intrusive on the other or nearby lots.  
510  
511 MATT NEUMAN: Well, no, I think if you look at the surrounding area, I mean, it's not like it's putting it in the  
512 middle of a residential area. I mean, we're pretty industrial there. And with a similar type, too. It's not like  
513 it's...  
514  
515 LARRY O'SULLIVAN: Right.  
516  
517 MICHAEL GALLAGHER: [indistinct]  
518 MATT NEUMAN: Yeah. I mean, there's a lot of trucks and...  
519  
520 LARRY O'SULLIVAN: I've gotta ask Jim, though, about the fans. I didn't understand where that came from.  
521  
522 MATT NEUMAN: Are we talking noise, are we talking...?  
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524 LARRY O'SULLIVAN: What do the fans have to do with...? The noise?  
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526 JIM SMITH: Yeah.

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LARRY O'SULLIVAN: Are they noisy? Is that what the point is? Outside or inside?

JIM SMITH: Initially, we had some complaints about how the whole operation which were pretty well resolved.

MATT NEUMAN: But, you know, again, if we're looking at a...it's surrounded by industrial, whether it's, you know, Industrial-I or Industrial-II, I mean...

LARRY O'SULLIVAN: Yeah, but something like the airport, you know you have fans at the airport and you can hear them to Windham for Pete's sake.

JIM SMITH: They're not that...but I think the point that I'm getting out of this is by going Industrial-I, then getting a variance for this specific use, you're limiting what they can do on that lot, still to Industrial-I for any future development.

LARRY O'SULLIVAN: Right.

JIM SMITH: Or this use, not every Industrial-II use.

LARRY O'SULLIVAN: Right.

JIM SMITH: So I think that makes sense. Given the type of operation and everything else, this location to me makes much more sense than where they currently are. 'Cause that it is a very unique, unusual building to say the least, the way it's set up presently.

NEIL DUNN: So then although we're doing 52 Clark, the new lot that's gonna be, that we're really voting on, is gonna be on Jack's Bridge and two point nine (2.9) acres? So we would be able to cover that alright? We're not zoning that whole Clark lot?

MATT NEUMAN: No, that's a good point, though, because, I mean, this has not been subdivided.

NEIL DUNN: Right, so that would be a restriction...

JIM SMITH: It would have to be conditioned on...

LARRY O'SULLIVAN: Conditional. Conditional on the subdivision.

JIM SMITH: Right.

MATT NEUMAN: And that it is limited to the...

NEIL DUNN: Two point nine (2.9) acre lot that was...

571 MATT NEUMAN: No, that's a good point.  
572  
573 JIM SMITH: The smaller of the two (2) lots.  
574  
575 MATT NEUMAN: Well, yeah, I think we gotta say the Jack's Bridge lot. If we say the smaller of the two (2),  
576 that could be...  
577  
578 LARRY O'SULLIVAN: So are you ready for a motion, is that what you're saying?  
579  
580 NEIL DUNN: Yeah, if we're done discussion.  
581  
582 LARRY O'SULLIVAN: With that condition? What are we gonna use for the address? I mean, we have a lot  
583 number for Pete's sake. It's still 15-97, so...  
584  
585 NEIL DUNN: Yeah, but it would be a new subdivision, so they'd pick a new address, wouldn't they? It would  
586 have no frontage on Clark, it would only have frontage on Jack's Bridge.  
587  
588 LARRY O'SULLIVAN: It's still 15-97, regardless of what the street address is.  
589  
590 JIM SMITH: Larry?  
591  
592 LARRY O'SULLIVAN: Yes, sir?  
593  
594 JIM SMITH: Why don't you call it "proposed 97-1"?  
595  
596 LARRY O'SULLIVAN: Okay, 15-97-1.  
597  
598 JIM SMITH: Right.  
599  
600 MATT NEUMAN: Yeah, [indistinct].  
601  
602 LARRY O'SULLIVAN: Okay.  
603  
604 JIM SMITH: What was the acreage of the...?  
605  
606 NEIL DUNN: Two point nine (2.9).  
607  
608 TODD CONNORS: It is exactly two point nine four two (2.942).  
609  
610 JIM SMITH: Then you could say "proposed lot with an proposed acreage of two point nine two (2.92) acres.  
611 That way you're...  
612  
613 LARRY O'SULLIVAN: Alright. Okay. I'd like to make a motion, Mr. Chairman, that we approve case 7/20/2011-  
614 3 with the condition, based on the successful approval of the subdivision of this 2.92 acre lot off of this 15-97.

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NEIL DUNN: And that the I-II is only for that lot, the subdivided lot.

LARRY O'SULLIVAN: Yes, I'll add that.

JIM SMITH: Maybe you ought to incorporate the particular use at they're saying.

NEIL DUNN: Valid.

MATT NEUMAN: I don't know, Richard, can we limit that, as far as...or are we straight up I-II?

RICHARD CANUEL: No. You can...

MATT NEUMAN: Limit it to motor vehicle...

RICHARD CANUEL: This being a variance, the Board certainly has the authority to place conditions upon granting the variance. Being that this is being presented for a particular use, you can certainly condition the approval of the variance based on successful subdivision and site plan approval for this particular use by the Planning Board.

LARRY O'SULLIVAN: There you go. There's my motion.

JAY HOOLEY: So moved.

MATT NEUMAN: Do I have a second on that?

JIM SMITH: I'll second.

MATT NEUMAN: Motion seconded. Alright, all those...

LARRY O'SULLIVAN: In favor...

MATT NEUMAN: ...in favor of the motion with restrictions? Aye.

JAY HOOLEY: Aye.

LARRY O'SULLIVAN: Aye.

NEIL DUNN: Aye.

JIM SMITH: Aye.

MATT NEUMAN: Opposed?

659 [no response in opposition]

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662 RESULT: THE MOTION TO GRANT CASE NO. 7/20/2011-3 WITH RESTRICTIONS WAS APPROVED, 5-0-0

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666 RESPECTFULLY SUBMITTED,

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A handwritten signature in cursive script that reads "Neil Dunn". The signature is written in black ink and extends across the width of the page.

671 NEIL DUNN, CLERK

672 TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

673

674 **APPROVED AUGUST 17, 2011** WITH A MOTION MADE BY LARRY O'SULLIVAN, SECONDED BY JAY HOOLEY AND  
675 APPROVED 5-0-0.