

1 **LONDONDERRY ADMINISTRATIVE REVIEW COMMITTEE**

2
3 **MINUTES OF THE PUBLIC HEARING ON APRIL 29, 2015 IN THE ELWOOD**
4 **CONFERENCE ROOM**

5
6 ARC Members Present: Asst. Director of Public Works John R. Trottier, P.E.; Senior
7 Building Inspector/Zoning Officer/Health Officer Richard Canuel; Associate Planner Jaye
8 Trottier; and Planning and Economic Development Department Secretary Nicole Doolan

9
10 Also Present: Toufic Farhat (Applicant) and Eric C. Mitchell (Engineer)

11
12 J. R. Trottier called the meeting to order at approximately 9:30 AM.

13
14 **Public Hearings**

15
16 A. David Fortier (Owner) and Mila Motors (Applicant), Map 10, Lot 136 – Application
17 Acceptance and Public Hearing for formal review of a minor site plan application to
18 facilitate a change of use from a take-out restaurant to automotive sales at 9 Nashua
19 Road, Zoned C-II.

20
21 J. Trottier stated there were four (4) outstanding checklist items which have
22 associated waiver requests. Assuming the ARC grants the waivers, Staff
23 recommends application acceptance as complete:

- 24
25 1. Section 4.12 of the Site Plan Regulations requiring an existing conditions plan
26 with all requisite checklist items, including a boundary plan, be provided in the
27 plan set and certified by a licensed land surveyor. Staff recommends granting the
28 waiver because the plan includes a note referencing the previously approved site
29 plan prepared by Benchmark Engineers, Inc., dated February 2, 2009, which
30 includes an existing conditions plan.
31
32 2. Section 3.02 of the Site Plan Regulations requiring that all monuments be
33 shown or set. A boundary survey would need to be performed in order to set new
34 boundary monuments. Staff recommends granting the waiver because the
35 requirement for a boundary plan was previously waived in 2009.
36
37 3. Section 3.09 of the Site Plan Regulations requiring the preparation of a
38 landscape plan. Staff recommends granting the waiver because the constraints of
39 this site, its location on Nashua Road, and the proposed use would not provide any
40 landscape areas that could sustain new trees.
41
42 4. Section 3.12 of the Site Plan Regulations requiring the submission of
43 building elevations. Staff recommends granting the waiver because there are no
44 changes proposed to the existing building.
45

46 **R. Canuel made a motion to approve the Applicant's request for the four (4)**
47 **waivers listed, as outlined in Staff's Recommendation memo dated April 29,**
48 **2015. J. Trottier seconded the motion** No discussion. **Vote on the motion:**
49 **3-0-0.** The four waivers were granted.

1
2 **J. Trottier made a motion to accept the application as complete per Staff's**
3 **Recommendation Memo dated April 29, 2015. R. Canuel seconded the**
4 **motion. No discussion. Vote on the motion: 3-0-0.** The application was
5 accepted as complete.

6
7 J. Trottier read the additional waiver request into the record:

- 8
9 1. Section 3.08.b.5 of the Site Plan Regulations requiring that a sight distance
10 plan be prepared. Staff recommends **granting** the waiver because the plan
11 includes a note referencing the previously approved site plan prepared by
12 Benchmark Engineers, Inc., dated February 2, 2009, which included sight
13 distance plans.

14
15 **J. Trottier made a motion to approve the Applicant's request for the waiver**
16 **as outlined in Staff's Recommendation Memorandum Dated April 29, 2015.**
17 **R. Canuel seconded the motion. No discussion. Vote on the motion: 3-0-0.**
18 The waiver was granted.

19
20 E. Mitchell presented the revised site plan, which was previously approved for the
21 Poor Boys Diner Take-Out Restaurant. T. Farhat of Mila Motors is proposing to use
22 the site as a used car lot. No repair of vehicles will take place. A total of six parking
23 spaces would be required, and eight spaces are proposed for both employees and the
24 public. The minimum requirement for display is two vehicles, and Mila will provide for
25 display area for fifteen (15). No additional structures are proposed for the site.
26 Conditions of the prior take-out restaurant site plan included the addition of curbing
27 to the westerly entrance and removal of the existing fuel tanks from a previous gas
28 station use. The fuel tanks were removed last year and the Applicant is proposing to
29 add the aforementioned curbing to the westerly entrance as part of this plan. The
30 easterly entrance will be closed off and curbing added. The existing gas station
31 canopy will also be removed. There will be no changes to the drainage; there will be
32 an actual reduction in existing impervious surface as well as an increase in the
33 amount of green space.

34
35 J. Trottier read into the record the precedent conditions from the Staff's
36 Recommendation Memorandum dated April 29, 2015 (see Attachment #1).

37
38 Applicant and E. Mitchell acknowledged and stated they understood all thirty
39 precedent conditions presented. There was further discussion on a few of the
40 conditions:

- 41
42 • Precedent Condition #2 – The Applicant stated that an NHDOT driveway permit
43 has been applied for, but that the actual permit is still pending.
44
45 • Precedent Conditions #3 and #4– The Applicant agreed to add loam and seed
46 to create grass panels in all areas dedicated on the plan to landscaping. The
47 Applicant also agreed to enclose the space between the two vehicle display
48 areas in the northeasternmost corner and loam and seed. In addition, the
49 landscape strip across the frontage will be increased and will locate the curb

1 line by measuring for an adequate drive aisle (22') and then for 20' vehicle
2 display.
3

- 4 • Precedent Condition #10 - R. Canuel asked the Applicant what his intent was
5 regarding the existing freestanding sign. T. Farhat responded that no changes
6 will be made to the existing sign in location or dimensions and that it will only
7 be refaced. He said there is no other proposed signage.
8

9 E. Mitchell asked Staff if T. Farhat can move in before all of the site work is
10 completed. R. Canuel explained to the Applicant that he may move in to set up his
11 office, but he may not move in to conduct business. He said a Certificate of
12 Occupancy (C.O.) is required to open the business and a signed site plan is required
13 before the C. O. can be issued. The site plan can only be signed once the precedent
14 conditions are fulfilled. E. Mitchell asked Staff whether a surety would be required
15 and J. R. Trottier said it would not be in this particular case.

16 T. Farhat told Staff that the canopy should be removed this week.
17

18 No members of the public were present to comment.
19

20 **J. Trottier made a motion to grant final approval of the minor site plan**
21 **application to facilitate a change of use from a take-out restaurant to**
22 **automotive sales at 9 Nashua Road, Zoned C-II, in accordance with the plans**
23 **prepared by Eric C. Mitchell & Associates, Inc., dated February 9, 2015, with**
24 **the precedent conditions to be fulfilled within 120 days of the approval and**
25 **prior to plan signature, and the general and subsequent conditions of**
26 **approval to be fulfilled as noted in the Staff Recommendation Memo, dated**
27 **April 29, 2015. R. Canuel seconded the motion. No discussion. Vote on the**
28 **motion: 3-0-0.**
29

30 The minor site plan was granted final approval.
31

32 **Other Business**

33 There was no other business.
34

35 **Adjournment:**

36 **J. Trottier made a motion to adjourn the meeting. R. Canuel seconded the**
37 **motion. The motion was approved, 3-0-0.**
38

39 The meeting adjourned at approximately 9:49 AM.
40

41 Respectfully Submitted,
42

43
44
45
46 Nicole Doolan
47 Planning and Economic Development Secretary

STAFF RECOMMENDATION

To: Administrative Review Committee

Date: April 29, 2015

From: Cynthia A. May, ASLA, Town Planner
John R. Trottier, PE, Assist. Dir. Of DPW

Application: David Fortier (Owner) and Mila Motors (Applicant), Map 10, Lot 136 – Application Acceptance and Public Hearing for formal review of a minor site plan application to facilitate a change of use from a take-out restaurant to automotive sales at 9 Nashua Road, Zoned C-II.

- Completeness: ***There are four (4) outstanding checklist items which have associated waiver requests. Assuming the ARC grants the waivers, Staff recommends application acceptance as complete.***

1. Section 4.12 of the Site Plan Regulations requiring an existing conditions plan with all requisite checklist items, including a boundary plan, be provided in the plan set and certified by a licensed land surveyor. Staff recommends ***granting*** the waiver because the plan includes a note referencing the previously approved site plan prepared by Benchmark Engineers, Inc., dated February 2, 2009, which includes an existing conditions plan.

2. Section 3.02 of the Site Plan Regulations requiring that all monuments be shown or set. A boundary survey would need to be performed in order to set new boundary monuments. Staff recommends ***granting*** the waiver because the requirement for a boundary plan was previously waived in 2009.

3. Section 3.09 of the Site Plan Regulations requiring the preparation of a landscape plan. Staff recommends ***granting*** the waiver because the constraints of this site, its location on Nashua Road, and the proposed use would not provide any landscape areas that could sustain new trees.

4. Section 3.12 of the Site Plan Regulations requiring the submission of building elevations. Staff recommends ***granting*** the waiver because there are no changes proposed to the existing building.

- ARC Action required: **Motion to Approve the Applicant's request for the four (4) waivers listed, as outlined in Staff's Recommendation memo dated April 29, 2015.**
- ARC Action Required: **Motion that the Administrative Review Committee Accept the Application as Complete per Staff's Recommendation memo dated April 29, 2015.**

- The Applicant has requested one **waiver** to the Site Plan Regulations:
 1. Section 3.08.b.5 of the Site Plan Regulations requiring that a sight distance plan be prepared. Staff recommends **granting** the waiver because the plan includes a note referencing the previously approved site plan prepared by Benchmark Engineers, Inc., dated February 2, 2009, which included sight distance plans.
 - ***ARC Action required:* Motion to Approve the Applicant's request for the waiver as outlined in Staff's Recommendation Memo dated April 29, 2015.**
- **Recommendation:** Based upon the information available to date the Staff recommends **FINAL APPROVAL** of this application with the NOTICE OF DECISION to read substantially as follows:
 - ***ARC Action Required:* Motion to Grant Final Approval to the Minor Site Plan for David Fortier (Owner) and Mila Motors (Applicant), Map 10, Lot 136, to facilitate a change of use from a take-out restaurant to automotive sales at 9 Nashua Road, Zoned C-II, in accordance with the plans prepared by Eric C. Mitchell & Associates, Inc., dated February 9, 2015, with the precedent conditions to be fulfilled within 120 days of the approval and prior to plan signature, and the general and subsequent conditions of approval to be fulfilled as noted in the Staff Recommendation Memo, dated April 29, 2015.**

"Applicant", herein, refers to the property owner, business owner, or organization submitting this application and to his/its agents, successors, and assigns.

PRECEDENT CONDITIONS

All of the precedent conditions below must be met by the Applicant, at the expense of the Applicant, prior to certification of the plans by the Planning Board. Certification of the plans is required prior to commencement of any site work, any construction on the site or issuance of a building permit.

1. The Applicant shall add to note 29 on sheet 1 that no additional lighting is proposed for this plan. The Applicant shall also clarify if the "spot light" on sheets 2 through 4 is an actual spot light or a street light. Please note that no spot lights will be permitted on the site.
2. The Applicant shall obtain an NHDOT driveway permit for the proposed improvements.

3. The Applicant shall clearly label the existing landscaping on sheet 2. Staff recommends that all proposed shrubs be removed because they will not thrive in the conditions at this location, primarily due to snow storage impacts. All newly created green space shall be grass panels with a detail for loam and seeding to be added to the detail sheet.
4. Staff recommends that the Applicant extend the curb line at the corner of Route 102 and Ela Avenue to enclose the space between the two vehicle display areas and loam and seed. The Applicant shall also increase the landscape strip across the frontage of the closed curb cut, measure for an adequate drive aisle (22'), plus 20' for vehicle display to locate the new curb line.
5. The Applicant shall provide a plan showing the turning template for the type "SU" vehicle as described in note 35 on sheet 1. Please also correct the numbering of the notes on sheet 1; note 34 was missed.
6. The Applicant shall label the critical widths (i.e. the drive aisle) on sheet 2.
7. The Applicant shall dimension the three vehicle display areas on sheet 2.
8. The Applicant shall add to the fourth paragraph of their "Drainage Impact Letter" that "The result will be no increase in the rate of runoff from this site." The letter must also be stamped and signed by a Professional Engineer.
9. The Applicant shall have the "Traffic Impact Letter" stamped and signed by a Professional Engineer.
10. The Applicant shall clarify whether the business sign on sheet 5 is a freestanding sign or wall sign. The Applicant shall provide dimensions of the sign, including that of the pole if it is a freestanding sign. If the sign is freestanding, the Applicant shall also indicate how the sign is lit. The note shall specify how the Poor Boy's sign is to be "reused by the new owner" for clarification, and if applicable, change the note to say "refaced."
11. The Applicant shall remove the surveyor's stamp from sheets 1 and 2 and include the proper endorsement (stamp and signature) of a Professional Engineer on sheet 2 (the site plan).
12. The Applicant shall include the stop sign detail on sheet 5.
13. The Applicant shall use the Town of Londonderry typical cape cod berm detail on sheet 5.
14. The Applicant shall use the most current version of the Planning Board signature block on sheets 1 and 2 as noted in Section 4.03 of the Site Plan Regulations.

15. The Applicant shall add a plan note #38 to indicate the required permits and permit approval numbers (i.e. existing DOT permit, new DOT permit and existing DES septic approval).
16. The Applicant shall correct the ownership and zoning of abutting Lot 10-130 on sheets 2 through 4 and indicate the zoning line between Lots 129 and 130 as one is C-II and the other is AR-I.
17. The Applicant shall change the word "municipal" in plan note 10 on sheets 1 and 3 to "public" and shall change the name "Pennichuck" to "Derry" in note 30 on sheet 1.
18. The Applicant shall include in note 11 on sheets 1 and 3 the appropriate panel number and date of the FEMA Flood Insurance Rate Map referenced.
19. The Applicant shall clarify on sheet 2 that the "note 13" to be referenced regarding the existing 15" CMP is on sheet 3.
20. The Applicant shall add a signature block for the owner on sheet 3.
21. The Applicant shall remove the scale from the title block on sheet 1 as it is not applicable.
22. The Applicant shall correct the wording of the tax map and lot in the title block on all sheets to indicate there is only one lot associated with the plan.
23. The Applicant shall either correct the sheet numbers to match the sheet index or vice versa.
24. The Applicant shall verify the date of the plan (i.e. "2014" is noted in the title block).
25. The Applicant shall address the following in the list of previous variances on sheet 1:
 - a. Please use the correct year of Case No. 3/18/68-7;
 - b. Please remove the word "area" from the description of Case Nos. 8/20/74-3 and 8/21/90-1.
26. The Applicant shall provide the Owner's signature on the plans.
27. The Applicant shall note the waivers granted on the site plan.
28. The Applicant shall provide a digital (electronic) copy of the complete final plan to the Town prior to plan signature by the Board in accordance with Section 2.05.n of the regulations.
29. Financial guaranty where necessary.
30. Final engineering review.

PLEASE NOTE - If these conditions are not met within **120 days** to the day of the meeting at which the Administrative Review Committee grants approval, the Committee's approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674:39 on vesting.

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

1. **No construction or site work for the site plan may be undertaken until the pre-construction meeting with Town staff has taken place, filing of an NPDES-EPA Permit and the site restoration financial guaranty is in place with the Town.** Contact the Department of Public Works to arrange for this meeting.
2. The project must be built and executed exactly as specified in the approved application package unless modifications are approved by the Planning Division & Department of Public Works, or if staff deems applicable, the Planning Board.
3. All of the documentation submitted in the application package by the Applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.
4. All site improvements and off-site improvements must be completed prior to the issuance of a certificate of occupancy. In accordance with Section 6.01.d of the Site Plan Regulations, in circumstances that prevent landscaping - to be completed (due to weather conditions or other unique circumstance), the Building Division may issue a certificate of occupancy prior to the completion of landscaping -improvements, if agreed upon by the Planning Division & Public Works Department, when a - financial guaranty (see forms available from the Public Works Department) and agreement to complete improvements are placed with the Town. The landscaping - shall be completed within six (6) months from the issuance of the certificate of occupancy -, or the Town - utilize the financial guaranty to contract out the work to complete the improvements as stipulated in the agreement to complete landscaping improvements. **No other improvements shall be permitted to use a financial guaranty for their completion for purposes of receiving a certificate of occupancy without prior Planning Board approval.**
5. It is the responsibility of the Applicant to obtain all local, state, and federal permits, licenses, and approvals which may be required as part of this project (that were not received prior to certification of the plans). Contact the Building Division at extension 115 regarding building permits.