

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

DATE: AUGUST 19, 2015

CASE NO.: CASE NO. 8/19/2015-3

APPLICANT: FREEDOM PARK ASSOCIATES, LLC
20 AUBURN ROAD
LONDONDERRY, NH 03053

LOCATION: 6 AUBURN ROAD, 16-64-0, I-II

BOARD MEMBERS PRESENT: JIM SMITH, CHAIRMAN
JACKIE BENARD, VOTING MEMBER
JIM TIRABASSI, VOTING MEMBER
ANNETTE STOLLER, VOTING ALTERNATE
BILL BERNADINO, NON-VOTING ALTERNATE
NEIL DUNN, ACTING CLERK

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

REQUEST: VARIANCE TO ALLOW A RETAIL MOTOR VEHICLE SALES USE, AS
LICENSED BY THE STATE OF NH, IN THE I-II ZONE WHERE OTHERWISE
NOT ALLOWED BY SECTION 2.5.1.2.A.2.a.

PRESENTATION: N. DUNN READ THE CASE INTO THE RECORD. TWO PREVIOUS CASES.
NO LETTERS.

JIM SMITH: Who will be presenting?

KEITH LEFEBVRE: My name is Keith Lefebvre. I live at 58 Auburn Road in Londonderry. My family is working on the purchase of the building at 6 Auburn and 1 Independence Drive. We are asking the variance being requested from Section 2.5.1.2.1.2.1 for a tenant occupied office space that is of a C-II designation. It's approximately 750 sq. ft., and designed as Suite 4 at our 1 Independence Drive location in an I-II district. The I-II zoning parcel at 6 Auburn Road is at the intersection of Auburn Road and Independence Drive. It's approximately 75 feet from Route 28. The whole of the building is approximately 6,000 sq. ft. The upper level of the forward most building is laid out in two office suites approximately 750 sq. ft. per suite. Our tenant, Autohaus Wolfinger, LLC, is a startup company which is in the business of internet sales of top end certified used BMW cars and occasionally similar upscale European cars. The company conducts its business via internet in search of vehicles for prospective buyers. Autohaus must have a lease for professional space in order to obtain its retail car dealership license from the State of New Hampshire. The space must provide

45 for the display of vehicles for sale. It's not the intention of Autohaus to have a walk on lot for an inventory of
46 vehicles, but is required by the State to have something like this available. Autohaus entered in the lease
47 agreement in February 2015. A letter dated May 21, 2015 from the State of New Hampshire denied the
48 application for Autohaus for a retail dealer license. A discussion with the chief building inspector determined
49 that this type of business is not allowed in an I-II zoning district. Retail car dealerships are zoned in C-II. The
50 special condition of this property relates to its setting which is at the corners of an AR-I, I-I, I-II and C-II
51 intersection which is in the map that we had attached. At no time since February has Autohaus displayed a
52 vehicle for sale on the premises. Since he intends to conduct the better part of his business via internet and
53 by appointment only. The lease does provide four parking spaces for which only two may be used for
54 vehicles offered for sale. Autohaus again has indicated that the intent is to conduct his business via internet,
55 but would the professional space to be a licensed dealer with the State of New Hampshire to meet with
56 potential customers during the course of their business relationship. This business offers a service to its
57 clients based on searching for a specific year, make and model of BMW and other European cars. The
58 business does not intend to regularly display vehicles for sale on the premises, but is required to have this
59 available at its business location to meet the New Hampshire retailer dealers requirements for licensing. In
60 going through out facts to support the request. The variance will not be contrary to the public interest since
61 it will not promote or attract any adverse traffic impacts due to its limited nature of walk in business, nor will
62 it negatively impact the form of business development which has occurred in Route 28 and independence
63 drive area. Additionally, the C-II use in the I-II zone will not have any negative impacts on the public interest
64 or environment due to its boutique and internet style sales program. The requested variance will not have an
65 impact on Section 2.6.2.8, or 2.6.2.7 since the location is an industrial II zoning and the higher standards for
66 zoning are in place for this district for the impact to the community and its abutters. The intersecting roads
67 are already used by a mix of light and heavy vehicles. It would place additional burdens on the
68 neighborhood. The character of this specific location relative to zoning districts places it at the cross roads of
69 C-II, I-I and I-II properties. The spirit of the ordinance is observed and the property owner is not requesting a
70 heavier use of an I-II zoning, but in fact is requesting a more passive C-II and limited use of the available
71 professional space. This use is suitable to the close proximity to the intersection zoning districts and will not
72 alter the essential character of the location. The substantial justice is done by allowing a conditional use of
73 the premises which is similar and complementary to others in the neighborhood. The granting of this request
74 use will not impact the property rights similar to those enjoyed by the majority of other properties in the
75 vicinity or other properties in the same zoning district. The values of the surrounding properties will also not
76 be diminished by the intended use in that the variance request will not increase traffic flow. It will not create
77 a heavier use of the location that it's already experienced. There will be no decrease of values surrounding
78 properties with the intent and/or requested use. It is with no fair and substantial relationship exists between
79 the general public purposes of the ordinance provision and the specific application of that provision to the
80 property. The purpose of limiting uses as laid out in the zoning ordinances is a matter of compatibility
81 between land uses. The property in question is abutted by AR-I, I-II, I-I and C-II. The frontage road and
82 property access is along Independence Drive which is developed with truck intensive uses. Strict applications
83 of the ordinance in this case is not necessary give the less heavy use requested by the business of Autohaus.
84 The proposed use is a reasonable one and will not alter the character of the neighborhood given its location
85 at the intersecting zoning districts. The surrounding users allow for manufacturing, retail, vehicle sales,
86 service repair, service establishments all of which are similar in a level of impact on the surrounding property.
87 The office space of the property can also not be used as professional space given the I-II zoning. It's not a
88 space desirable for occupation by doctors, dentists, lawyers, engineers, planners, architects, attorneys,

89 insurance, real estate, or investment agencies or any similar type of profession as designed in the zoning
90 regulations. Despite efforts to lease the space, this suite has been unoccupied for several years, and the
91 request to allow Autohausto occupy and conduct business as mentioned above is an reasonable use of it.
92 The suite has shown that it cannot be reasonably used as a professional office space in strict conformance
93 with the ordinance of an I-II setting. The business in question is much of a service. We're only asking that the
94 (our tenant) be able to get his license, and he's not looking for a 25 car lot like on Bypass 28 or similar areas
95 that are within a radius of our locations vicinity. We're only going to allow the tenant two spaces for vehicles
96 to be parked, and those two vehicles will already be spoken for by clients that he found and talked with
97 through the internet. He's not looking to create some type of large used car lot that's going to be an eye sore
98 to abutters and he's also trying to stick with very higher upscale types of vehicles. They aren't going to be the
99 \$2,000 side of the road specials. That was our...

100
101 JIM SMITH: So, if we were to put in a restriction of just those two spaces could be utilized would be
102 acceptable?

103
104 KEITH LEFEBVRE: Absolutely.

105
106 JIM SMITH: Questions from the Board?

107
108 ANNETTE STOLLER: It sounds like those two spaces are for pickup or delivery of vehicles largely...

109
110 KEITH LEFEBVRE: Yes, ma'am.

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112 ANNETTE STOLLER: ...but, do you ever use them for display?

113
114 KEITH LEFEBVRE: No, they would not be in location for a display. He's not going to have a big bright neon
115 letters/numbers stuck on windshield...

116
117 ANNETTE STOLLER: Oh, no not after tonight...

118
119 KEITH LEFEBVRE: ...with flags, none of that...

120
121 ANNETTE STOLLER: ...he wouldn't want...

122
123 KEITH LEFEBVRE: ...Yeah, not that look of a used car lot at all.

124
125 JIM SMITH: Any other questions?

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127 NEIL DUNN: I'm trying to get through the use table here to see what else I can compare it to. I'm good for
128 now.

129
130 JIM SMITH: Anyone else?
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132 JACKIE BENARD: Mr. Chairman, I do have a question. He is a licensed dealer for the State of New Hampshire
133 presently?

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135 KEITH LEFEBVRE: He's trying to get his license.

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137 JACKIE BENARD: Okay, so he doesn't have his dealer license yet?

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139 KEITH LEFEBVRE: Yeah, the State wouldn't allow it because they say you need an "x" number of spaces, so
140 we're trying to get that "x" number lowered...we're not looking for...I think their requirement was 25, sorry,
141 I'm not sure if I can...?

142
143 JIM SMITH: Do you want to come up and identify yourself?

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145 TOM WOLFINGER: Sure, Tom Wolfinger, 25 Bartley Hill Road.

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147 JIM SMITH: You need to get on a mic.

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149 TOM WOLFINGER: Oh, sorry.

150
151 JACKIE BENARD: So you are the operator, or the one applying for the motor vehicle license?

152
153 TOM WOLFINGER: That's correct. I started Autohaus Wolfinger, LLC...I've done everything that I've need to
154 for the State's requirement to start the dealership. I was granted...I guess it went through the State process
155 and then got denied here at the Town because I don't have the amount of spaces that are required to have a
156 "dealership".

157
158 JACKIE BENARD: What was the number required for the dealership?

159
160 TOM WOLFINGER: I believe it was 20+ to that effect. I can't remember the exact number to be perfectly
161 honest with you.

162
163 JACKIE BENARD: So, you are in the process with the State of New Hampshire to get a dealer license with a
164 smaller number of vehicles?

165
166 TOM WOLFINGER: That's correct.

167
168 JACKIE BENARD: So, you are asking them to reduce that?

169
170 TOM WOLFINGER: Correct.

171
172 JACKIE BENARD: And, that's still in the process?

173
174 TOM WOLFINGER: Well, no it got denied. Until you...until...the denial portion was here in the Town. I don't
175 fit the ordinance of a Town for a dealership.

176 [Overlapping comments]
177
178 JACKIE BENARD: So, the State of New Hampshire has not given you a dealer number?
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180 TOM WOLFINGER: Not yet, no.
181
182 JACKIE BENARD: Okay, but should you pass the criteria for the dealer number that number is 30. Roughly 28
183 or 30?
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185 TOM WOLFINGER: I would say, sure.
186
187 JACKIE BENARD: Okay, so if you get that and you are a dealer...
188
189 TOM WOLFINGER: Yup.
190
191 JACKIE BENARD: ...which you are only asking for 2 spaces at this location?
192
193 TOM WOLFINGER: That's correct.
194
195 JACKIE BENARD: What if you grow?
196
197 TOM WOLFINGER: Then I'd obviously have to seek another location. I wouldn't even try...My intention; I
198 don't intend to grow beyond an initial service provider for any of my clients. I started...I have sort of a
199 reputation as kind of a BMW guy due to older cars...older 80's BMW's in particular. Refurbishing them and
200 things of that nature. Anyways, my clientele has grown and I can only sell 6 per year from my yard. From my
201 social security number, so I've had to kind of grow, and this is the way I'm trying to do it full time.
202
203 JACKIE BENARD: So, you have a 2 bay repair facility there now?
204
205 TOM WOLFINGER: No, to have an auto dealer's license, I don't have to have ...I just have to have a inspection
206 station that signed up. That's already taken care of as well. Everything...all of the compliance as far as that's
207 concerned inspections stations things of that nature are all taken care of.
208
209 JACKIE BENARD: So, that would encompass that location as well? Would be the State inspection portion?
210
211 TOM WOLFINGER: Yeah, that's correct. It doesn't have to be on the location of business, so the State
212 inspection portion of it is a gas station locally right here off of 102 actually.
213
214 JACKIE BENARD: So you have that location as well?
215
216 TOM WOLFINGER: No, no not mine. Their registered as a provider to me...
217
218 JACKIE BENARD: For you?
219

220 TOM WOLFINGER: Exactly.
221
222 JACKIE BENARD: Okay.
223
224 TOM WOLFINGER: Sorry.
225
226 KEITH LEFEBVRE: The Independence Drive location is essentially base of headquarters to meet his clients, sign
227 paperwork and hand over the vehicle they have found for them.
228
229 TOM WOLFINGER: Yeah, I needed 750 sq. ft. of office space basically to be able to get my license, get a plate,
230 so I could get these vehicles, and you know basically be able to get my license, get a plate, so that I can get
231 these vehicles once I found them. You know, I need a dealer's plate and things of that nature. I could do a
232 dolly and you know there's a whole bunch of ways I could circumvent the process and you know...but I'd
233 rather just form it property and do business like anyone else would, I suppose.
234
235 JACKIE BENARD: Okay, thank you.
236
237 TOM WOLFINGER: No worries.
238
239 ANNETTE STOLLER: Mr. Chair? So in essence you're a broker more than a dealer? Is there a category like
240 that?
241
242 TOM WOLFINGER: Ah, not that I'm aware of?
243
244 KEITH LEFEBVRE: Well, I guess there are for some...I'm in the classic car field. I restore and rebuild antique
245 classic and American vehicles, so there are some people that might say they want a specific year, make and
246 model, and I guess they would be considered a classic car broker, so I guess in Tom's instance maybe it's
247 something similar, but it's more of a boutique style...
248
249 TOM WOLFINGER: Sure, in order for me to go to auction though specifically...like so once I've obtained that I
250 need to find this car. I need to be able to go to auction for it. In order for me to go to auction for it, I need to
251 have a dealer's license. Without that license, I'm relegated to kind of the way that I've done it before which is
252 searching through craigslist and other means and try to barter with someone...get a car at a wholesale price
253 and sell it as a profit depending on what type of service it needs.
254
255 JIM SMITH: You've got a question?
256
257 JIM TIRABASSI: You said you needed to have 30 cars, or roughly for the license?
258
259 TOM WOLFINGER: No, the ability to have the spaces to show 30 cars for you know...again, it's because
260 everything...I'm never going to have an inventory...
261
262 [Overlapping comments]
263

264 JIM TIRABASSI: So, you have to have the space for the ability to show 30 cars?
265
266 KEITH LEFEBVRE: In order for him to get his license that was required of him...
267
268 JIM TIRABASSI: ...No, no...so how are you going to show that ability?
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270 KEITH LEFEBVRE: He doesn't want to.
271
272 TOM WOLFINGER: I don't want...yeah.
273
274 KEITH LEFEBVRE: He's trying to get the conditional use, or variance from you guys as to not to have to have 30
275 spaces. He's not looking to be a used car dealership.
276
277 ANNETTE STOLLER: Is that realistic?
278
279 JIM SMITH: Richard, is it a local zoning requirement that he have 25 spaces?
280
281 RICHARD CANUEL: No, no. The issue is when someone applies to the State for a retail motor vehicle license;
282 the State requires that you have to provide on-site display for motor vehicles for sale. If Autohaus was doing
283 nothing more than occupying an office space in this building and doing paperwork it would no need to be
284 here, but to be as a retail motor vehicle dealer and displaying vehicles on-site that's a use that is not permitted
285 by our ordinance. So, it still comes down to the State. Will the State allow Autohaus to display less than the
286 required 20 vehicles? As far as the ordinance is concerned, retail vehicle sales is only permitted in the C-II
287 district in Town.
288
289 JIM SMITH: Okay, so I'm trying to figure out which...so the parking display area requirement is a state
290 requirement?
291
292 RICHARD CANUEL: Correct.
293
294 JIM SMITH: Not a Town requirement.
295
296 RICHARD CANUEL: No.
297
298 JIM SMITH: The reason why you denied was that it wasn't an allowed use in the district?
299
300 RICHARD CANUEL: That's correct.
301
302 JIM SMITH: Okay, so we know what's...
303
304 TOM WOLFINGER: My understanding was that the State cleared it and that it went to here and that because
305 of the zoning that was...there's no mention of the specifics as far as the amount of vehicles that I could have.
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307 JIM SMITH: And, if...

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RICHARD CANUEL: When someone applies to the State for a license whether it's a retail dealer or a wholesale dealer.

JIM SMITH: Yeah.

RICHARD CANUEL: The State sends a form to my office, and in that form, it says does this use comply with local zoning. So, of course that's where the denial came from.

[Overlapping comments]

JIM SMITH: Okay, just so you understand?

KEITH LEFEBVRE: Yeah, I'm confused?

JIM SMITH: So, the number of parking spaces is something you have to argue with the State over.

KEITH LEFEBVRE: Yeah, which they never had an issue with...

JIM SMITH: Well, okay.

KEITH LEFEBVRE: Okay.

JIM SMITH: So, when they forwarded it to the Town...

KEITH LEFEBVRE: Yup.

JIM SMITH: The Town looked at the local zoning regs and said you're in a district that doesn't permit this use. Rejected it, and sent it back.

KEITH LEFEBVRE: Yeah.

JIM SMITH: So, that is what gets us to this point.

KEITH LEFEBVRE: Yes.

JIM SMITH: So, I think what we are trying to say if we do grant this variance we would probably put a restriction on no more than two display vehicle spaces, and I think you would say that would be acceptable? I'm just throwing that out at this point. Okay, so everybody understand what we are arguing?

BILL BERNADINO: That way the 2, if you accept the 2, he sends it into the State again to try to get it...

[Overlapping comments]

352 BILL BERNADION: Because we approved 2.

353
354 ANNETTE STOLLER: Who's going to reject it?

355
356 JIM SMITH: If they approve 2 then you're in business. The State says no, then that's another problem.

357
358 KEITH LEFEBVRE: Oh, yeah, no I agree...

359
360 JIM SMITH: That's between you and the State now. Okay, any more questions, or...? Having none, anybody in
361 support of this? Any one in either opposition, or have any questions? Seeing none why don't we take it back
362 to the Board. Anything else? So we will close the public hearing at this point and will go into deliberations.

363
364 **DELIBERATIONS:**

365
366 JACKIE BENARD: This is um...this Auburn Road location is very very very busy. To say the least and that's
367 probably being light about it. If the State of New Hampshire allows a retail motor vehicle license, a dealer
368 license at this location whether it's 28 or 30, it's far from 2 spaces. Once they allow that dealer license to be
369 granted to the applicant...I mean that's the State license. If we say only 2 parking spots, two display areas, it
370 doesn't negate the fact that being a State of New Hampshire motor vehicle dealer allows him to flourish to
371 have a minimum of, or a requirement of you know "x"...28 or 30 whatever that number is.

372
373 ANNETTE STOLLER: So, you're saying the State won't confine him to 2 spaces?

374
375 JACKIE BENARD: Oh the State will absolutely not confine him to 2 spaces.

376
377 ANNETTE STOLLER: Yeah, I can't imagine it either.

378
379 JACKIE BENARD: Because it's a license to conduct the sales of motor vehicles. So, I mean that's what the issue
380 is here, and he's telling us he has a niche market and that he has just a limited clientele; however, he's still a
381 motor vehicle dealer. It's not going to...it's not a license just for a niche little market. He can do all that
382 requires under a dealer license from the State of New Hampshire.

383
384 NEIL DUNN: But his variance, or the allow ability, the authority to run the business is on a variance that we
385 would restrict with a certain number if he broke it, the variance would be broken. Now whether the State
386 would ever find out, who knows, but...?

387
388 JACKIE BERNARD: What I'm hesitant on is...when we grant the variances then they stay with that?

389
390 NEIL DUNN: Unless we put a sunset on it, or something?

391
392 JACKIE BENARD: Yeah, I mean there's all these factors that go into this, and that area is very busy. It has a lot
393 of types of uses with trucking. I mean we're talking it's a motor vehicle dealer.

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395 NEIL DUNN: Right, and I understand...I'm sorry, Jim.

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JIM SMITH: Richard, does the State periodically ask for a review of this?

RICHARD CANUEL: No, usually when a license is initially approved, I never hear from the State again .

JIM SMITH: Okay.

RICHARD CANUEL: Unless there's a change in the licensing.

JACKIE BENARD: Now, I know for a fact that when you are a New Hampshire dealer you do fill out paperwork and you must be renewed and they do come out and check your facility. They check all dealers.

NEIL DUNN: Yearly?

JACKIE BENARD: Ah, yes.

NEIL DUNN: So, your biggest concern is that we can't control it. I'm thinking that because we say the variance which gives him the authority to be approved in that location is saying 2 parking spots and we would sunset it at the termination of the lease agreement between Autohaus and...

JACKIE BENARD: Well the thing is he wouldn't even be here if he truly just needed some office space to conduct paperwork for this niche market. He obtains the vehicles. A BMW...whatever the car is there's still that function. There's still that where's it repaired? It's...he states it's being inspected somewhere else. There's some gray area here that you know the State will once it's signed off on the State you know is still going to review it, but he's still a license dealer at that point. You know whether or not...I don't know if the State would say "that's great but, I know you have a variance here; however, you have to meet this requirement" ...you must be able to handle a certain minimum amount of business to remain a dealer.

JIM TIRABASSI: Yeah, right.

JACKIE BENARD: So, that's the other gray area.

JIM TIRABASSI: Yeah, but that's not part of that because an issue between him and the State after the fact, but we limit it to what he can have then he takes his chances with the state as to what they will accept. We grant him a right to start to have the business there with a cap number of vehicles. The State says that's not sufficient. That doesn't become a problem back to us. That becomes a problem to them.

ANNETTE STOLLER: My understanding from what you said is that you've already been through the State process?

TOM WOLFINGER: Yeah, I had to get a certain amount of coverage \$250,000 worth of bond coverage for my business name. The inspection station...all those things. The final portion of the process they actually send a State trooper down to make sure my signage is proper. All that good stuff. I had plans on putting up the signage and all that stuff, but we started this...in order for me to get the application even submitted I had to

440 sign a lease. So, I signed my lease back in February. So, we've been kind of going back and forth making sure
441 all the criteria areas are met, and all that stuff. I go through that process and got to here, and that's where
442 we're at now. Once I get through here, then a State trooper will come to that place – the place of business
443 and make sure all my signs and everything else...like if it's only 2 spaces all that good stuff...um...

444
445 ANNETTE STOLLER: How are you going to get signs?

446
447 TOM WOLFINGER: I'm sorry?

448
449 ANNETTE STOLLER: How are you going to get signs?

450
451 TOM WOLFINGER: Oh, I...yeah, they already referred me to a company that will...basically the same company
452 that made their signs for...

453
454 [Overlapping comments]

455
456 ANNETTE STOLLER: That wasn't really my question?

457
458 TOM WOLFINGER: I'm sorry.

459
460 ANNETTE STOLLER: Would you be allowed to put up a sign in that place?

461
462 TOM WOLFINGER: Absolutely, the residents at 1 Independence and 6 Auburn Road there has a Freedom Park
463 has a pre-existing variance you'd call it with a signage out front for all of Independence Drive, so all of the
464 companies on Independence Drive have a sign in front of our building already...

465
466 ANNETTE STOLLER: Okay.

467
468 TOM WOLFINGER: ...and there's open space vacant on the sign for all of the tenants.

469
470 ANNETTE STOLLER: Okay, so it's still beyond my understanding for the moment why you didn't take an office
471 space...

472
473 TOM WOLFINGER: Sure...

474
475 ANNETTE STOLLER: ...an office suite there and not bother with all this other stuff?

476
477 TOM WOLFINGER: To get a dealers plate, to move the vehicles...

478
479 ANNETTE STOLLER: Ahh...

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481 TOM WOLFINGER: ...to go to auction. Things of that nature those are you know...

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483 ANNETTE STOLLER: So you're...

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TOM WOLFINGER: ...it's the source...you know, being able to source the cars and do everything the right way. You know, per the State and all that good stuff, I need to get my dealers license.

KEITH LEFEBVRE: Attempting to do it the right way there's in a much smaller scale...

TOM WOLFINGER: Yeah.

KEITH LEFEBVRE: ...than the big car lots.

ANNETTE STOLLER: No, no I've known people not in this local who functioned on a smaller scale and done that, but they've attached in one case I'm thinking about who attached himself to another company and that's how he did it. It was different local, it was in Texas.

TOM WOLFINGER: Sure.

ANNETTE STOLLER: It had nothing to do with anything, but it's sounds to me you're going to go in a crazy circle if you take this...if we can grant you something which would be wonderful for you, and then you're back at the State who says what's going on with this?

TOM WOLFINGER: That again, the State trooper will be the final portion of this...I mean the State themselves, we go denied at here because of the zoning, and...

ANNETTE STOLLER: Right.

TOM WOLFINGER: So, once that zoning goes through then the trooper is the person who's going a...and I...there's nothing on that application that says anything about anything else I need to submit at that point. You know, I should be able to operate at that point? The only other regulations, I wish I brought my application because I could speak more intelligently, but his is really it. If you guys grant me the ability, the trooper comes and sees all the signs and everything is as the State requires then I should be good to go at that point. I don't...I mean, I don't think that there's a...I mean I hate to keep spinning my wheels. I've been spending a bunch of money on rent and stuff like that; don't get me wrong they're great people to be around.

KEITH LEFEBVRE: I say on top of that too, we as the future perspective land owners don't want a used car lot at 1 Independence Drive. That's not what we are looking for. We, being the nature of the business that we have there, it's difficult to find professional people to share space with a facility like ours with somebody that has the understanding is great. It's great to have somebody on the same mind set. Speaks with clientele with the same type of nature...is very easy to work with, so that's why we're here today because it's not only for Tom's behalf at the same time as a building owner, it's difficult to find tenants of someone of his nature that is using for...looking for a limited use of the professional space.

JIM SMITH: Okay, we kind of...

[Overlapping comments]

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JIM SMITH: we really shouldn't be...we were supposed to be in deliberating. We really shouldn't have more information, but at this point, the public hearing is no more questions unless we have a technical question, so let's bring it back to the Board. Any other concerns?

JIM TIRABASSI: No

JIM SMITH: Observations? Does somebody want to make a motion?

JACKIE BENARD: Can I...

JIM SMITH: Sure.

JACKIE BENARD: ... Mr. Chairman? This question is for Richard. The more stringent use in our ordinance table is the I-II, correct? Compared to the C-I, excuse me C-II for vehicle sales?

RICHARD CANUEL: Well, the I-II zone is a zone that allows more intensive uses...

JACKIE BENARD: Intense, okay.

RICHARD CANUEL: ...high impact manufacturing that sort of thing. The commercial II zone is slayed more for what is known as the motoring public.

JACKIE BENARD: Okay.

RICHARD CANUEL: Auto dealerships...

JACKIE BENARD: For vehicles sales. Okay.

RICHARD CANUEL: ...service stations those sort of things.

JACKIE BENARD: Okay. Alright. Thank you. Anybody else have any comments, or concerns?

JIM SMITH: I think one of the things that is unique about this...this being at the intersection of so many different districts. It's AR-I, C-I, C-II, I-II, I mean...it's a hodge podge right there. As he presented it the commercial II is...

NEIL DUNN: Across the street he could have it right?

JIM SMITH: Yeah, so we're not that far away, and it's probably a less intense use than you would normally see in an industrial...the way he's presenting it with the idea that most of the business activity is going to be more office type work, and occasionally he's going to bring a vehicle into...deliver to a customer, and he's not displaying them there.

572 NEIL DUNN: Displaying up to two, I thought it was?
573
574 JIM SMITH: Well, I mean...yeah, I know, I think it's more...in other words he's located vehicle on the internet...
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576 NEIL DUNN: Brings it in...
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578 JIM SMITH: ...he's brought it to the site. You come in pick up and leave. It's not like he's getting a vehicle
579 brining it in and having it sit there hoping he's going to get a customer in. It's a mating of the customer to a
580 particular vehicle rather than having a bunch of vehicles trying to get somebody to buy...one of many.
581
582 ANNETTE STOLLER: Jim understanding that we're saying that he's not going to be doing any repairs, etc., of
583 those vehicles on that property?
584
585 NEIL DUNN: They don't have the facility I don't think?
586
587 JIM SMITH: He doesn't have the...in other words he has 750 sq. ft....
588
589 ANNETTE STOLLER: I understand.
590
591 JIM SMITH: ...office and he's going to have two parking spaces. He evidently has an arrangement with
592 somebody else to do the inspection...
593
594 ANNETTE STOLLER: Okay.
595
596 JIM SMITH: ...at a different location, so...
597
598 NEIL DUNN: Well, I'm feeling fine with it with the restrictions that limit it to two vehicles with the sun setting
599 of the variance upon termination of the lease between Autohaus Wolfinger and Freedom Park Associates, and
600 contingent upon approval by the State.
601
602 JIM TIRABASSI: No service performed on site as well.
603
604 NEIL DUNN: No service performed on site that would be fine.
605
606 JACKIE BENARD: Well, saying no service performed on site, but it's zoned for that.
607
608 NEIL DUNN: It's zoned for a car repair?
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610 JACKIE BENARD: Isn't it Richard? It is?
611
612 RICHARD CANUEL: There's already a repair garage there. That's what they do.
613
614 JACKIE BENARD: Yes...
615

616 NEIL DUNN: Ahh...
617
618 JACKIE BENARD: ...it's zoned for that.
619
620 NEIL DUNN: Well, then why would it matter?
621
622 JACKIE BENARD: Exactly, so...
623
624 [Laughter]
625
626 JIM SMITH: Okay.
627
628 [Overlapping comments]
629
630 JIM SMITH: Do you want to make a motion?
631
632 NEIL DUNN: I wanted to make sure Jackie was...I was just throwing out what my thoughts were, and I like
633 Jackie to be...
634
635 JACKIE BENARD: And, I like that, and just scrap the last part for the repair.
636
637 NEIL DUNN: Okay.
638
639 [Overlapping comments]
640
641 JACKIE BENARD: I have some facts to write down here.
642
643 NEIL DUNN: I'll talk slowly. Mr. Chairman, I'd like to make motion to grant Case No. 8/19/2015-3 based on
644 that granting the variance would not be contrary to the public interest as presented, or the spirit of the
645 ordinance as presented.
646
647 [New disc change]
648
649 JIM SMITH: Do I have a second?
650
651 JACKIE BENARD: Seconded.
652
653 ALL: Aye.
654
655 **RESULTS: THE MOTION TO GRANT CASE NO. 8/19/2015-3 WAS APPROVED WITH CONDITIONS, 5-0-0.**
656
657 UNIDENTIFIED AUDIENCE MEMBER: **As a point of order?**
658
659 JIM SMITH: What?

660 UNIDENTIFIED AUDIENCE MEMBER: As a point of order though because Freedom Park Associates is not going
661 to be the owner in the very near future, will that disrupt the variance that you just granted? As anticipated a
662 change of ownership of Freedom Park, and that needs to go with the new owner.
663
664 NEIL DUNN: That's a valid point, I would think, so if I may rescind that motion, we no, no...it's going to be the
665 same thing. It's going to be upon termination with Autohaus, the owner, and...
666
667 JIM SMITH: The one of the lease.
668
669 NEIL DUNN: ...of the lease, basically...
670
671 [Overlapping comments]
672
673 JIM SMITH: The lease terminates...
674
675 NEIL DUNN: ...between Autohaus Wolfinger...
676
677 BILL BERADINO: Right...owner.
678
679 JIM SMITH: Yeah.
680
681 NEIL DUNN: As opposed to...yeah, I know, but to the point, it's Freedom Park selling it to Mr. Lefebvre...
682
683 KEITH LEFEBVRE: Yes, sir.
684
685 BILL BERADINO: But he's not moving his business where he's the lease.
686
687 JIM SMITH: Yeah.
688
689 BILL BERADINO: Right?
690
691 TOM WOLFINGER: Correct.
692
693 JIM SMITH: Okay, so...
694
695 NEIL DUNN: Are we clear enough on that, or do we have to re-motion?
696
697 JIM SMITH: I don't think so.
698
699 NEIL DUNN: You think we're good, then I'm good?
700
701 JIM SMITH: Okay.
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703

704 RESPECTFULLY SUBMITTED,
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706 
707

708 NEIL DUNN, ACTING CLERK
709

710 TYPED AND TRANSCRIBED BY NICOLE DOOLAN, PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT
711 SECRETARY.
712

713 **APPROVED (SEPTEMBER 16, 2015) WITH A MOTION MADE BY J. TIRABASSI, SECONDED BY J. BENARD AND**
714 **APPROVED 4-0-0.**
715