

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

DATE: MARCH 19, 2014

CASE NO.: 3/19/2014-2

APPLICANT: CHARLIE EVANS  
22 GOONAN ROAD  
HOOKSETT, NH 03106

LOCATION: 199 ROCKINGHAM ROAD; 15-67; C-II, WITHIN THE RTE. 28  
PERFORMANCE OVERLAY DISTRICT

BOARD MEMBERS PRESENT: JIM SMITH, CHAIR  
DAVID PAQUETTE, VOTING MEMBER  
JACQUELINE BENARD, VOTING ALTERNATE  
NEIL DUNN, CLERK

REQUEST: VARIANCE TO ALLOW AN EXISTING BUILDING TO REMAIN WITHIN THE  
FRONT 60-FOOT STRUCTURE SETBACK AS REQUIRED BY SECTION  
2.4.3.1.1; TO ALLOW A PARKING AREA WITHIN THE FRONT 30-FOOT  
GREEN SPACE AS REQUIRED BY SECTION 2.4.3.2.1; AND TO ALLOW A  
PARKING AREA TO BE UNPAVED AS PROHIBITED BY SECTION 3.10.13.2.1.

PRESENTATION: Case No. 3/19/2014-2 was read into the record with one previous case listed.

JIM SMITH: No letters ok...who will be presenting?

CHRIS MCGOWEN: My names Christopher McGowen and I will be speaking on behalf of Charlie Evens...owner/  
operator of Blue Lobster Detailing LLC, which is currently in the building.

JIM SMITH: ok...go ahead...

CHRIS MCGOWEN: So...for the five points of the law...we go through one by one. I'm relatively new to this so  
just bear with me I would appreciate it...

JIM SMITH: We won't bite...

[Laughter]

CHRIS MCGOWEN: It's not...contrary to the public interest...it's utilizing an existing building structure and will  
be low...low volume and impact to the surrounding area...as far as the parking service, due to the fact that it's  
a temporary...operation we are looking at two years that we will be in there...gravel surface is a steady surface

46 which is able to withstand drainage and erosion...additionally the use of the property with gravel surfaces for a  
47 short term...so...the spirit of the ordinance is observed...its observed by grandfathered structure for residential  
48 use, proposed use is for low volume. The building itself was...built in a residential area...back in the 70's...the  
49 building itself was torn down...I think within the last ten years, from my knowledge. The garage structure was  
50 still standing...during that time period...that area was rezoned commercial too...so...as we go into being into a  
51 commercial use...we are trying to work with current laws that are preventing us from the use right now...the  
52 surface is stabilized...there's less drainage than pavement and the use is again short term...the substantial  
53 justice is done...it puts existing facilities to use...it provides tax revenue for the town and again...it's in a short  
54 term use. The values of the surrounds properties are not diminished...so no impact on surrounding district  
55 being that it's commercial and we are converting that property over to commercial as which it was  
56 zoned...going into the unnecessary hardship...the existing garage facility I built to standards of its time...the  
57 change of use is for a low impact commercial use, property is composed of a steep ledge behind it...it's got a  
58 steep grave so in order for us to follow the rules of the...rules of the road right now it would have to move the  
59 building back...which would be substantial charge in order for us to run a small outlet for this business. The  
60 property is...let's see here...ok so...the proposed use is a reasonable one...it's a commercial use within a  
61 commercial district...those kind of go hand and hand and...the gravel surface is reasonable for short term use  
62 of this property so it will withstand the elements...in the...the paperwork that we had submitted it actually  
63 shows a diagram of a...of the map with the updates of where the parking will be, aside the garage...we are  
64 asking for two spots...and then one that will be handicap accessible that will be paved...the other two would  
65 be the gravel surfaces...giving where the house was before when it was deconstructed the fill was packed  
66 down and it has been...regarded since that...that building was still standing...so...

67

68 JIM SMITH: What would be the proposed use?

69

70 CHRIS MCGOWEN: It's for auto detailing, so everything that we would be working with would be inside the  
71 garage...we wanted to provide a service to the commuters off exit 5 through Boston Express so they would  
72 have the convenience of dropping off a car in the morning, being driven to work and then have their car  
73 returned to them in the afternoon looking like new.

74

75 JIM SMITH: So the...proposed parking spaces other than the handicap which will remain gravel..

76

77 CHRIS MCGOWEN: Mm-hmm

78

79 JIM SMITH: Are they there for the employees?

80

81 CHRIS MCGOWEN: Correct

82

83 JIM SMITH: The cars that are going to be worked on will be inside the building?

84

85 CHRIS MCGOWEN: Correct...

86

87 JIM SMITH: For the total time that they're on site...

88

89 CHRIS MCGOWEN: Not the total time that they would be on site...there would be a little bit of movement...I  
90 mean realistically they would be in there 85% of the time and the goal of...of a...of our business is not to have

91 the cars on the lot...we would...we would rather bring them back over to Boston Express for off...offsite  
92 parking.  
93  
94 JIM SMITH: Also you said it was short term...what is short term.  
95  
96 CHRIS MCGOWEN: Ah...given the nature of the business...there's a large overhead to have a garage for mobile  
97 detailing and detailing itself so we would like to build up our clientele list and that move off the beaten paths  
98 so we are not paying such a high expense...so that's the goal for our business...specifically.  
99  
100 JIM SMITH: So are you proposing this for a year, two years or three years?  
101  
102 CHRIS MCGOWEN: Two years is what my goal is...it could run into three.  
103  
104 JIM SMITH: Ok. Any other questions...  
105  
106 NEIL DUNN: Well...  
107  
108 JIM SMITH: I kind of...  
109  
110 NEIL DUNN: Richard if you could help me, wasn't that a commercial business prior to this?  
111  
112 RICHARD CANUEL: No  
113  
114 NEIL DUNN: Didn't they do small engine repairs?  
115  
116 RICHARD CANUEL: No...nope...  
117  
118 NEIL DUNN: That was a different location...  
119  
120 RICHARD CANUEL: Yeah that was primarily a residential use...existing non-conforming of course since that  
121 zone was changed to a commercial zone...once that house was demolished, the previous property owner was  
122 allowed to obtain that garage on the property for storage use only.  
123  
124 JACKIE BERNARD: What will your hours of operation be?  
125 CHRIS MCGOWEN: We were going to do by appointment only so...but...we are looking between seven and  
126 three.  
127  
128 JACKIE BERNARD: How many days a week?  
129  
130 CHRIS MCGOWEN: That would be five days a week.  
131  
132 JIM SMITH: What about questions?  
133  
134 NEIL DUNN: Ah...do you also do boats?  
135

136 CHRIS MCGOWEN: Yes  
137  
138 NEIL DUNN: So would you be looking to pull boats into there?  
139  
140 CHRIS MCGOWEN: No...the gravel on the driveway would be too much of a risk for our business if a block were  
141 to kick out and that would roll into the road that would be a disaster so...we like things with brakes if possibly.  
142  
143 NEIL DUNN: My bigger concern would be getting them in and out with the small frontage...  
144  
145 CHRIS MCGOWEN: And the traffic pattern...  
146  
147 NEIL DUNN: Yes...  
148  
149 DAVID PAQUETTE: Is there plans to change the grate at all because I know that's pretty steep there?  
150  
151 CHRIS MCGOWEN: For the driveway itself?  
152  
153 DAVID PAQUETTE: Yeah...  
154  
155 CHRIS MCGOWEN: ...No....  
156  
157 JACKIE BERNARD: How many...units or vehicles can you detail in that garage at one time?  
158  
159 CHRIS MCGOWEN: One...  
160  
161 JACKIE BERNARD: One...ok  
162  
163 CHRIS MCGOWEN: So we are looking at a capacity of three to four a day...in total...the...the majority of the  
164 service we provide is mobile, this is more for...as a training facility for new staff...secondly so that if there is a  
165 late evening detail that someone needs done, we can do that and for paint correction where it can't be  
166 exposed to the elements, meaning that it can't have direct sunlight and it has to have a certain temperature in  
167 order to wax it...things of that nature.  
168  
169 JACKIE BERNARD: So you ordinarily do this offsite because you're...  
170  
171 CHRIS MCGOWEN: Correct.  
172  
173 JACKIE BERNRD: Ok...so this is just something stationary...  
174  
175 CHRIS MCGOWEN: A nice little satellite location for us right off the highway, it's perfect.  
176  
177 DAVID PAQUETTE: You're not doing business there now?  
178  
179 CHRIS MCGOWEN: Well...we are currently now...yes.  
180

181 DAVID PAQUETTE: Ok...  
182  
183 [Long silence/pause]  
184  
185 JIM SMITH: Is there one door in front of that...  
186  
187 CHRIS MCGOWEN: There's one garage door and there is one access door...it looks like...  
188  
189 JIM SMITH: The pictures look from the top...  
190  
191 CHRIS MCGOWEN: Yeah...yeah, I have a picture from the front if you want to see it...  
192  
193 JACKIE BERNARD: How many employees will be at this site...did you say?  
194  
195 CHRIS MCGOWEN: Two to three...so there's two that are mainly going to be there...I...I will be visiting  
196 throughout the day.  
197  
198 JACKIE BERNARD: So basically it will be your employees parking there...  
199  
200 CHRIS MCGOWEN: Mm-hmm.  
201  
202 JACKIE BERNARD: ...and you only bring the units to the site when you are ready to do them...  
203  
204 CHRIS MCGOWEN: Correct.  
205  
206 JACKIE BERNARD: You won't store them there?  
207  
208 CHRIS MCGOWEN: No.  
209  
210 JIM SMITH: Ok...you asked the questions of what the hours were...what was your answer to that?  
211  
212 CHRIS MCGOWEN: Seven to three...  
213  
214 JIM SMITH: But then you said something about...some things being done overnight.  
215  
216 CHRIS MCGOWEN: Like a one off...it wouldn't be a consistent thing...it's just...it's you know...some of our  
217 clients go out of town type of thing where we pick up the car and do it off hours.  
218  
219 JIM SMITH: Well...ok...I think what I am trying to get you to...we need to pin down hours...how the hours are  
220 going to actually work.  
221  
222 CHRIS MCGOWEN: Ok...  
223  
224 JIM SMITH: Because if we say...you are going to be between seven and three...  
225

226 CHRIS MCGOWEN: Mm-hmm.  
227  
228 JIM SMITH: That means that's when the work would have to be done...between seven and three and not at  
229 night.  
230  
231 CHRIS MCGOWEN: Correct.  
232  
233 JIM SMITH: So we need to establish exactly what your real true hours are going to be.  
234  
235 CHRIS MCGOWEN: Ok...so...I mean to...for me the concern would be...I mean like I said we are in the beginning  
236 stages...if it's something that would help this get approved than we will work with it...but we also don't want  
237 to paint ourselves in a corner saying...  
238  
239 JIM SMITH: Well...that's exactly what I am trying to do...what you need to do is give us the...what you think the  
240 proposed time frames that you would be working there...so that we have it on the record as to what those  
241 hours are...because what could happen...if you say eight to five and someone goes by who objects to what  
242 you're doing and you're out there working, they are going to make a complaint...  
243  
244 CHRIS MCGOWEN: Ok.  
245  
246 JIM SMITH: So you need to establish now, what your hours really are going to be long term so that we can put  
247 it into the record and everyone knows up front what the hours are actually going to be.  
248  
249 CHRIS MCGOWEN: So I would say seven AM until eight PM to try to cover most of the day.  
250  
251 JIM SMITH: Ok, that's...that's what we are trying to get.  
252  
253 CHRIS MCGOWEN: Yeah sorry about that...  
254  
255 JIM SMITH: No...no that's ok...I am just trying to protect your interest and our interest both you know so...we  
256 need to establish these...because we have other places in town where we have some major arguments over  
257 hours of operation, as Richard can testify to...  
258  
259 [Laughter]  
260  
261 JIM SMITH: Ok...having said that, Neil any other questions?  
262  
263 NEIL DUNN: So if you are looking at a two to three year time window than you would be looking to get out of  
264 that location or are you looking to conform to that...  
265  
266 CHRIS MCGOWEN: Give that I...  
267  
268 NEIL DUNN: ...set backs  
269

270 CHRIS MCGOWEN: Give that I don't own the property, that's kind of what we had agreed on with the landlord,  
271 so I...I don't know what his long term goal is for the property...but as far as we had said you know...we could  
272 try that out. We started off in November and doing month to month, we got good business and so we decided  
273 to kind of...you know...lock it in for the winter and the winter wasn't the best for us...but you know...but...no  
274 but I'm trying to get two years out of it, I think that would be sufficient enough for me to build up a clientele  
275 list.

276  
277 JIM SMITH: Okay, I want to stop this hearing at this moment because the last three cases are going to ask for a  
278 continuance...

279  
280 CHRIS MCGOWEN: Ok

281  
282 JIM SMITH: And rather have them wait forever and anybody who's interested in those cases wait forever, I'm  
283 going to ask that those three cases be read into the record at this point, and then you can ask for your  
284 continence and we can get that out of the way, and then we will come back to you.

285  
286 CHRIS MCGOWEN: Sounds good.

287  
288 JIM SMITH: Ok.

289  
290 CHRIS MCGOWEN: Appreciate it.

291  
292 Neil Dunn read into the record the last three cases.

293  
294 ATTORNEY PANCIOCCO: Mr. Chairman for the record, Attorney Panciocco on behalf of team development. We  
295 are requesting...a continuance until next month. We got some comments from the Planning Board a few days  
296 ago...we would like to incorporate them into our presentation and present our case to the board next month.

297  
298 JIM SMITH: Ok...does anybody in the audience have any comments on this...

299  
300 UNIDENTIFIED: I do.

301  
302 JIM SMITHH: Would you approach the mic and...

303  
304 UNIDENTIFIED: I live in that neighborhood, you know we bought a house a...in that neighborhood.

305  
306 JIM SMITH: Ok...do you understand what we are doing? She wants to have a...

307  
308 UNIDENTIFIED: Yes I know...

309  
310 JIM SMITH: Wants it continued until next month...

311  
312 UNIDENTIFIED: I do...I do understand that.

313  
314 JIM SMITH: Ok...that's all we are doing tonight.

315 UNIDENTIFIED: Ok.  
316  
317 JIM SMITH: Ok.  
318  
319 UNIDENTIFIED: Alright, thank you.  
320  
321 ATTORNEY PANCIOCCO: Do we have a specific date that would be available?  
322  
323 JIM SMITH: Whatever the third Wednesday of the Month...  
324  
325 ATTORNEY PANCIOCCO: Third Wednesday of the month...ok  
326  
327 JIM SMITH: Well I...our normal meeting night is the third Wednesday.  
328  
329 ATTORNEY PANCIOCCO: Ok.  
330  
331 JIM SMITH:...ok...Kirby maybe you can come up with the date...  
332  
333 DAVID PAQUETTE: The 16<sup>th</sup> of April...  
334  
335 KIRBY WADE: The 16<sup>th</sup> .  
336  
337 ATTORNEY PANTSICO: Ok...great.  
338  
339 JIM SMITH: SO do I have a motion to continue these three cases to that date?  
340  
341 NEIL DUNN: Mr. Chairman I would like to make a motion to continue case 3/19/2014-4, case 3/19/2014-5 and  
342 case 3/19/2014-6 till April 16<sup>th</sup> {chuckling} of twenty-fourteen at out next regular meeting.  
343  
344 JIM SMITH: David do you want to second?  
345  
346 DAVID PAQUETTE: I second it.  
347  
348 JIM SMITH: David seconds. All those in favor.  
349  
350 NEIL DUNN: Aye.  
351  
352 JACKIE BERNARD: Aye.  
353 JIM SMITH: Aye.  
354  
355 DAVID PAQUETTE: Aye.  
356  
357 JIM SMITH: Ok...it will be continued...there won't be any other notices so...make a note on your calendar that  
358 the...these cases will be held on that night...  
359



360 UNIDENTIFIED: A Time?  
361  
362 JIM SMITH: If you call the Zoning Board secretary, she will be able to give you a time.  
363  
364 UNIDENTIFIED: Thank you!  
365  
366 ATTORNEY PANCIOCCO: Ok  
367  
368 JIM SMITH: Ok...  
369  
370 ATTORNEY PANCIOCCO: Thank you...  
371  
372 JIM SMITH: And I thank the individual whose case we interrupted for their indolence for this...allows these  
373 people to leave...so they don't sit here through another couple cases. Ok...the floors back to you. We are  
374 reopening case two.  
375  
376 NEIL DUNN: If I may Mr. Chairman while he's getting it together...Richard...so what would be...is there [slight  
377 laughter] any grandfathered use that would be allowed for this property in structure?  
378  
379 RICHARD CANUEL: Well there is no grandfathered use. Grandfathered use basically was residential...  
380  
381 NEIL DUNN: So...  
382  
383 RICHARD CANUEL: So anything that occurs on that property other than residential use is considered a change  
384 of use and that is what would trigger site plan review.  
385  
386 NEIL DUNN: And so the storage of personal property by the land owner who is the residential owner is fine but  
387 anything short of that is...there's nothing really...thank you.  
388  
389 RICHARD CANUEL: Mhmm.  
390  
391 JIM SMITH: So it will still have to go to Planning Board after us.  
392  
393 RICHARD CANUEL: Absolutely.  
394  
395 JIM SMITH: Ok...thank you. Yeah...ok any other questions from the board. Seeing none, anyone who is in favor  
396 who would like to speak...anyone who has objections or has questions. Could you approach the mic and  
397 identify yourself sir.  
398  
399 MIKE SPELTZ: Mike Speltz, 18 Sugar Plum Lane...I...I'm not sure that I agree that it is necessarily in the public  
400 interest to...to...loose this green space along roué 28 which is one of the gateways to the town. On the other  
401 hand I can understand the applicant reluctance to do a lot of site improvements if he is going to be there for  
402 two years. So...my questions would be than...does the Board have it in its authority to place a condition on the  
403 waiver...should you decide to grant it that would...set a...end date for the...for the waiver...can you...can  
404 you...make the waiver sunset in a period of two years as the applicant asked and then...[clearing of throat]...

405 should conditions change he may end up coming back and asking for it to be extended or whatever in which  
406 time could review the...you know his new plans...it...it doesn't seem to me to be in the public interest to allow  
407 this...unless it's for a very limited amount of time. Thank you Mr. Chairman.

408  
409 [Long pause]

410  
411 JIM SMITH: I...[laughter]...I expected you to bring up a different issue...

412  
413 [Laughter]

414  
415 JIM SMITH: Now I...I'm thinking about from an environmental point of view...Richard...isn't one of the  
416 functions of the pavement to control the pollution effects of leaking fluids from vehicles.

417  
418 RICHARD CANUEL: Well that's...that's one but it is also to control...run-off and drainage so you can direct that  
419 drainage to...you know appropriate drainage structures and so forth...

420  
421 JIM SMITH: Yeah...I see why I thought that.

422  
423 CHRIS MCGOWEN: I can understand that actually...we brought that up in one of the meetings once  
424 before...one of the biggest things that we are trying to do is actually piggyback off of the EPA standards of  
425 prim rows, which is right down the street so we would be utilizing their car wash, bringing it in and the rest of  
426 it is vaccumigng and waxing that would be done indoors...so we wouldn't have to worry too much about  
427 surface run off and chemicals and things of that nature because we wouldn't really be using them.

428  
429 JIM SMITH: Ok...I'm thinking more of the gravel parking spaces...

430  
431 CHRIS MCGOWEN: Ok.

432  
433 JIM SMITH: That's what I was thinking...

434  
435 CHRIS MCGOWEN: Ok.

436  
437 MIKE SPELTZ: May I approach Mr. Chairman...

438  
439 JIM SMITH: Sure

440  
441 MIKE SPELTZ: I...in this case...a it seems to me that what the gravel does is...it reduces the amount of  
442 impervious surface in town...whi...which is actually a good thing. I am not real familiar with the site but  
443 a...its...its hard to believe that...that adding a pervious surface is going to a...be helpful...a...if we can leave it as  
444 gravel. If we are going to have this use here...if it's going to be temporary than...I...I can see the value as  
445 leaving it as gravel.

446  
447 CHRIS MCGOWEN: Ok...thank you.

448  
449 DAVID PAQUETTE: The area that is destines to be handicap parking...is that already paved?

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CHRIS MCGOWEN: No...it's not.

JACKIE BERNARD:...you had said that you pick up vehicles...

CHRIS MCGOWEN: Mhmm.

JACKIE BERNARD: So you will have a handicap parking space because you do have current clientele that would be dropping off and waiting while it is being done?

CHRIS MCGOWEN:...I...I'm...it was just brought up in the meeting before hand and...

JACKIE BERNARD: Ok.

CHRIS MCGOWEN: And I am very...I coach the Special Olympics so ADA compliance is in my blood so if that's what they ask for than that does not bother me in the least...you know.

JACKIE BERARD: The reason why I asked is...because of...the entrance to...where your customer would park or where your handicap parking would be...and I...and on your map that you supplied us with...the star is that where your employees would park, where it's been that red star?

CHRIS MCGOWEN: The red star...

JACKIE BERNARD: Yeah...one of our pictures has a red star on it...the proposed parking lot for the employees

CHRIS MCGOWEN: Mhmm, so there's the line...for the ramp that comes out of the van, there's the actually spot where the handicap van would park...

JACKIE BERNARD: Mhmm.

CHRIS MCGOWEN: And then there's two spots next to it...I actually probably don't have the exact same thing that you have in front of you..

JACKIE BERNARD: Oh, ok.

CHRIS MCGOWEN: Is it just...within those two spots that it is marked with a star...I'm guessing that's probably where he is indicating...that its...that would be a different surface, it would be gravel and then the actual handicap spot would be...paved...because you do have to lay out those yellow lines and everything like that.

JACKIE BERNARD: Because the terrain of that lot...

CHRIS MCGOWEN: Mhmm.

493 JACKIE BERNARD: And people coming in and out and then I just pictured a...a handicap van trying to get in or a  
494 handicap unit and trying to park and what's going on in there trying to get in and out because that 102...102  
495 corridors is pretty tricky right there at that bend...  
496  
497 CHRIS MCGOWEN: Mhmm.  
498  
499 JACKIE BERNARD: So that's...I guess I needed clarification for that...that's all.  
500  
501 JIM SMITH: I think the x is just the quark of the computer.  
502  
503 JACKIE BERNARD: Ok.  
504  
505 JIM SMITH: Because if you look at the fact that some have the x, some don't...  
506  
507 JACKIE BERNARD: Ok.  
508  
509 JIM SMITH: And I know there is a red dot on the two buildings and again I think that's just part of the...  
510  
511 JACKIE BERNARD: Part of the program...  
512  
513 JIM SMITH: Yeah...That's...yeah that would just be my uneducated guess. Ok...we are trying to interpret  
514 the...what we have on our computer here a little bit.  
515  
516 CHRIS MCGOWEN: Ok.  
517  
518 JIM MISTH: Any other comments or questions or observations...if not bring it back to the board any further...  
519  
520 DANID PAQUETTE: No sir.  
521  
522 JIM SMITH: Ok...we will close the hearing at this point and we will take it nder advisement and...go from there.  
523  
524 JIM SMITH: I think we will let Neil take the lead because he is the most experienced on this...On the...  
525  
526 NEIL DUNN: Well my...my thought is...if we look at the five points when he talks about the variance not being  
527 contrary to public interest...I mean right now it is really existing as a garage for storage...it...it's not really there  
528 for anything other than that...[clearing of throat]...and the land owner, whoever decided to take down the  
529 residence and be left with this garage, so when he talks about point one it's not contrary to the interest  
530 because it will be using an existing building structure I...it is in the overlay district, it is commercial I think it...I  
531 don't see how leaving a structure there that's not in the proper...use...I mean in no way is it grandfathered for  
532 commercial use although he does talk about it being a grandfathered structure, it's grandfathered for storage  
533 for the residential owner...I...I think it's really just delaying and what the...and what the 28 overlay is all about  
534 and...and improving the area, making it more commercial so...I...I'm having trouble having it be, not be  
535 contrary to public interest by maintaining this...building that's there that really has no value in it. To me it  
536 looks like...you know...it's time for it to be upgraded...the spirit of the ordnance...you know...again he mentions  
537 it is observed because it is a grandfathered structure for residential use and the use is low volume, again, it's

538 for residential use, it's really a commercial zone and I think it's in the Town's best interest t get it upgraded to  
539 commercial property...substantial justice is done put the existing facility use and produce tax revenue to the  
540 town for the short term...I don't think that changes the tax burden on that property right now. It will be the  
541 same regardless if he is there...I do agree that number four wont, probably won't diminish any of the  
542 surrounding properties because there is no real change to it it's not like he's going to do anything...worse to it  
543 I guess...the existing garage facility built as standard at the time, change of use, low impact commercial,  
544 however it doesn't meet the commercial zoning stuff...I'm...it seems to me that there may be a better  
545 locations, especially as a renter who is just looking for a place to do it and i...being in that 28 overlay and the  
546 fact that I don't think it is under the best public interest I think it should be addressed as a commercial building  
547 and using the ordinance and the zoning and the setbacks as we have on the books.  
548

549 JIM SMITH: Any other comments?...well...I think one of the problems with this particular piece of property are  
550 the slopes...it goes uphill dramatically from that point where it meets the road...in fact that's what...you  
551 know...caused the...request for the variance to contrast a retaining wall on the adjacent property...so...I think  
552 what we have before us is an attempt of the owner to generate some income form this property knowing well  
553 that is going to be a difficult piece of property to develop. I think...I think now adays we have to consider the  
554 economic impact too.  
555

556 NEIL DUNN: Yeah but he's a renter, not the owner...he's just renting.  
557

558 JIM SMITH: I know but...I mean the owner is trying to...generate some income...from the property by renting  
559 it.  
560

561 DAVID PAQUETTE: I think the new pavement will probably help...probably help its appeal anyways.  
562

563 JIM SMITH: yeah  
564

565 JACKIE BERNARD: Well because it's going to be used...in...in a commercial sense...as a...as just a residential  
566 structure...you can overcome the difficulty of getting in and out and the lack of pavement is fine when it's just  
567 as a resident or storage in this case, but then you start to change what's there and it's going to have more  
568 use...it's going to be used commercially...for short term.  
569

570 JIM SMITH: Any other comments?...Would somebody care to make a motion?  
571

572 DAVID PAQUETTE: Mr. Chairman I would like to make a motion to approve the request...  
573

574 JIM SMITH: Ok...do you want to address the...whether or not he has proven the five points.  
575

576 DAVID PAQUETTE:...well...sure [laughter].  
577

578 JIM SMITH: We are breaking a new gentleman in on the board so...  
579

580 DAVID PAQUETTE: [Laughter] Ah yes...this is my first evening. So that a...it would not be contrary to the public  
581 interest...I guess I'm out of place here...  
582

583 JIM SMITH: well I mean...you...everyone has to make a first attempt.  
584  
585 DAVID PAQUETTE: Sure...sure...I...I just don't...the...the building is not being used it kind of at this point is...just  
586 sits there and is not doing anything for...for the town...I think it's providing a service to the town and especially  
587 to the idea of...a...a needed service...for people that commute...  
588  
589 JIM SMITH: Ok...take a look at the five points and...come up with some sort of a comment.  
590  
591 DAVID PAQUETTE: [chuckling]...  
592  
593 JIM SMITH: You know...just...I suspect this motion is probably not going to go where you think it is.  
594  
595 DAVID PAQUETTE: Ok...granting the variance would not be contrary to the public interest because...it...it's not  
596 being used now so...it's putting the...the land to use is a...a benefit I think. I mean I have driven by there in the  
597 past and things have looked pretty poor...as of...from a site type of thing...the...spirit of the ordinance...the  
598 existing structure issue is...the buildings been there for many years so...I mean I guess the first ordinance  
599 about the 60 ft. structure set back is a low point...the parking area, it seems like the area is there already and  
600 this is only going to...improve on its...its look...and retain the unpaved...some of its going to be paved for  
601 the...for the handicap access and the unpaved section will stay...unpaved as it is today, so I see vehicles there  
602 parked...occasionally...I travel through there...normally...so...I don't know how much more you need.  
603  
604 JIM SMITH: Ok...do I have a second? I don't see a second so your effort has...been a good first.  
605  
606 DAVID PAQUETTE: Thank you.  
607  
608 JIM SMITH: Neil, would you want to make a motion?  
609  
610 NEIL DUNN: Mr. Chairman I would like to make a motion to deny case 3/19/2014-2 based on the...granting the  
611 variance would be contrary to the public interest...the existing building is of residential use only and it's just  
612 delaying growth of a...of a potential commercial property...I do not feel that number two, the spirit of the  
613 ordinance would not be observed...because the setbacks and the...the paving requirements are there to serve  
614 a commercial property and...we are really just continuing a...a nonconforming use, which I am not comfortable  
615 with. I do agree with not probably diminish any property values since it's sitting there...and although the  
616 special condition of the property does have a steep embankment, larger commercial endeavors, primes  
617 example is the next door neighbor, there are ways to remedy that, although not defiantly, not for...for the  
618 applicants or the case, because that doesn't make sense from his point of view, but it is a commercial overlay  
619 district that...I do think it can work.  
620  
621 JIM SMITH: Ok...do I have a second?  
622  
623 JACKIE BERNARD: You do.  
624  
625 JIM SMITH: Jackie seconds...those in favor of the motion to deny...  
626  
627 NEIL DUNN: [laughter]...I always get confused on these.

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JIM SMITH: I know....

[Laughter]

NEIL DUNN: Favor in the motion to deny.

JIM SMITH: All those....we are asking for a vote to deny it.

JACKIE BERNARD: To deny it.

NEIL DUNN: Aye.

JIM SMITH: Aye.

JACKIE BERNARD: Aye.

DAVID PAQUETTE: Nay.

JIM SMITH: Ok...four-nothing

NEIL DUNN: But did David say...

DAVID PAQUETTE: I said nay.

JIM SMITH: Ok so three-one.

RESULT: THE MOTION TO DENY CASE NO. 3/19/2014-2 WAS APPROVED, 3-0-1 WITH DAVID PAQUETTE IN OPPOSITION.

RESPECTFULLY SUBMITTED,



NEIL DUNN, CLERK

TYPED AND TRANSCRIBED BY KIRBY WADE, EXECUTIVE ASSISTANT

**APPROVED AS AMENDED\* APRIL 16, 2014** WITH A MOTION MADE BY NEIL DUNN, SECONDED BY DAVID PAQUETTE AND APPROVED 4-0-1 WITH JIM TIRABASSI ABSTAINING AS HE DID NOT ATTEND THE MEETING.

\*Amendments suggested by Jim Smith: Two typographical errors, one on line 83 and the other on line 214.