

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

DATE: MAY 16, 2012

CASE NO.: 5/16/2012-3

APPLICANT: LONDONDERRY CONGREGATION OF JEHOVAH'S WITNESSES, INC.
C/O JOHN W. MCCONNELL, JONATHAN M. CHARUK, AND MAGDIEL H.
CANALES
10 KENDALL POND ROAD
LONDONDERRY, NH 03053-1144

LOCATION: 10 KENDALL POND ROAD; 6-47-1; AR-I

BOARD MEMBERS PRESENT: JAMES SMITH, ACTING CHAIR
LARRY O'SULLIVAN, VOTING MEMBER
JAY HOOLEY, VOTING MEMBER
JAMES TOTTEN, VOTING ALTERNATE
NEIL DUNN, CLERK

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

REQUEST: VARIANCE TO ALLOW A DAYCARE AND NURSERY SCHOOL USE IN THE
AR-I ZONE WHERE NOT LISTED AS A PERMITTED USE IN SECTION 2.2,
TABLE OF USES.

PRESENTATION: Case No. 5/16/2012-3 was read into the record with five previous cases listed.

JIM SMITH: Who will be presenting?

DARLENE CORDARO: Hi, my name's Darlene Cordaro and this is my husband, Jim. And we would like to
change it to a child care. Should I read through all these?

LARRY O'SULLIVAN: It's a daycare?

DARLENE CORDARO: Child care is what they use instead of daycare. I mean, that's just what licensing uses.
That's what my license says is "Child Care."

NEIL DUNN: Richard, do you see that impacting anything as far as notification or anything?

RICHARD CANUEL: No, I don't see how that makes much difference.

NEIL DUNN: Okay. Thank you.

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RICHARD CANUEL: That's more of a State licensing issue.

NEIL DUNN: Okay.

JIM SMITH: Go ahead.

DARLENE CORDARO: I'm just gonna read what I put in here. We are requesting a variance so we can operate a Child Care/ Nursery School which is not permitted in the present zoning. The variance will not be contrary to the public because the structure is already in place and in use. The average attendance per service is about a hundred. The child care center, at maximum capacity, would be eighty (80) children with an average of two (2) children per family. The spirit of the ordinance is observed. A child care center is very similar to a church whereas the structure would not change, traffic would be similar but staggered throughout the day so it would not be intrusive to the neighborhood. Substantial justice is done. We believe that a child care/nursery school would be beneficial to the neighborhood and community by providing a much needed service. I had talked to all the neighbors a couple weeks ago and got a lot of positive feedback. And I left letters with everybody else and nobody's said anything contrary to it. The values of surrounding properties are not diminished. The values of the surrounding properties will not be diminished as the structure of the building will remain the same. The only proposed changes would be play areas, fencing, and a driveway leading to Mammoth Road. No fair and substantial relationship exists between the general public purpose of the ordinance provision and specific application of the provision to the property and because of the current zoning, a variance is needed for anything other than another church. The proposed use is a reasonable one. The proposed use is a reasonable one because it is very similar to what is already there. An additional benefit for the Town would be real estate taxes for the property.

JIM SMITH: Okay, I'm a little...when you say real estate taxes, is that changing the way the building is...?

DARLENE CORDARO: The Church does not pay taxes. If it's a child care center, it will pay taxes.

JIM SMITH: Okay.

DARLENE CORDARO: That's all.

LARRY O'SULLIVAN: A lot, I hope.

[Laughter]

DARLENE CORDARO: I hope not.

LARRY O'SULLIVAN: [Indistinct] five million a year today.

NEIL DUNN: So you mentioned access to Mammoth Road. So that's something that would go in front of the Planning Board and Janusz and...?

90 RICHARD CANUEL: Well, the frontage is already there and that access, you know, being a State road, would be
91 through the, you know, State DOT if they, you know, so chose to grant a driveway permit.

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93 LARRY O'SULLIVAN: So it's up to the State to grant that driveway permit.

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95 RICHARD CANUEL: That's right. That's right.

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97 LARRY O'SULLIVAN: Are you aware of that?

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99 DARLENE CORDARO: Yes.

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101 LARRY O'SULLIVAN: So we're not gonna require...because there's no...I'm sorry, there are no alterations to the
102 building, there's no...the only additions that you're going to do is in a parking lot and a driveway. Where
103 you're gonna have a fenced-in area for the play area? Is there green area there at all?

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105 DARLENE CORDARO: Yes.

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107 LARRY O'SULLIVAN: There is?

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109 DARLENE CORDARO: Yes, there is.

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111 JAY HOOLEY: It's gray in the picture.

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113 LARRY O'SULLIVAN: Is that drawn here someplace and I just don't see it or...? Did you submit a drawing for
114 this?

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116 DARLENE CORDARO: I thought it was with the Planning Board, when we came before.

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118 NEIL DUNN: Just this site plan, the old site plan. You're talking about the quantity of attendees
119 being...typically, the service...Church service has a hundred (100) or..."Average attendance per service is about
120 a hundred (100), eighty (80)..." So are you only looking to run this during your services or as a full time...?

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122 DARLENE CORDARO: We're looking to purchase the...we did a Purchase and Sale. We're looking to buy it
123 from the Kingdom Hall and turn it into a child care center and not a church.

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125 LARRY O'SULLIVAN: So it's a conversion of the use from a church.

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127 DARLENE CORDARO: Yes.

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129 LARRY O'SULLIVAN: They're not gonna be a church anymore.

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131 DARLENE CORDARO: Right. Correct.

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133 NEIL DUNN: Oh...so it...the application...

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LARRY O'SULLIVAN: So it's not a home occupation, right? So you expect to have forty (40) children or eighty (80) children?

DARLENE CORDARO: Eighty (80) at the most. Right now we...I have seventeen (17) and we'll be taking them all with us.

LARRY O'SULLIVAN: Are you Miss Cordaro?

DARLENE CORDARO: Yes, I am.

NEIL DUNN: Okay, so that's what was confusing me there, then.

JIM SMITH: Okay, so...

NEIL DUNN: New ownership. It's a new use.

JIM SMITH: This use...have you actually purchased the building yet or are the...?

DARLENE CORDARO: We did a Purchase and Sale, pending zoning. Like if we're allowed to use it for a child care center, 'cause if we're not allowed to use it for a child care center, there's no sense in purchasing the building.

JIM SMITH: Okay. So that would lead us to put a restriction on the variance if it was granted, "pending the sale of the property to this couple."

LARRY O'SULLIVAN: Mm-hmm. Mm-hmm. Is it the...who's doing the purchasing?

DARLENE CORDARO: We are.

LARRY O'SULLIVAN: Do you have a company or...I have...there's a slew of names at the beginning of this and I'm not sure who's representing who or who is making the purchase.

DARLENE CORDARO: Jim and Darlene Cordaro will be making the purchase.

LARRY O'SULLIVAN: 'Cause you're only listed on this as a representative, so...

DARLENE CORDARO: Right.

LARRY O'SULLIVAN: Fine.

NEIL DUNN: So your point about the eighty (80) versus the hundred (100) was that was the usage was currently, typically, during a service. So you're following under what's going on there now.

DARLENE CORDARO: Right. Exactly.

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NEIL DUNN: Okay.

LARRY O'SULLIVAN: Okay, so the...I'm not aware of the, you know, the services that were used there in the past. Are they, you know seven (7) days a week or are they, you know, twice a week or once a week or...? I don't know. So, I mean, when we're talking about the impact on traffic, we have, in my opinion, you know, my familiarity is Sunday mornings at the corner, at the intersection of South Road and Mammoth Road..

DARLENE CORDARO: Mm-hmm.

LARRY O'SULLIVAN: ...there's a thousand people trying to turn left to get into St. Mark's Church on Sunday morning. You don't see that any other time of the day or any other day of the week.

DARLENE CORDARO: Right.

LARRY O'SULLIVAN: Just then.

JIM SMITH: Saturday night.

LARRY O'SULLIVAN: So there's a traffic impact. I'm sorry?

JIM SMITH: Saturday night.

LARRY O'SULLIVAN: Alright. Okay. With a child daycare, I would assume that your request for hours is going to be something in the way of 6:00 in the morning 'til 6:00 at night.

DARLENE CORDARO: Right.

LARRY O'SULLIVAN: Is it gonna be seven (7) days a week?

DARLENE CORDARO: No, five (5). Monday through Friday.

LARRY O'SULLIVAN: Monday through Friday.

DARLENE CORDARO: Mm-hmm.

LARRY O'SULLIVAN: Okay, so there's potentially significantly more traffic that you're going to be attracting there, as opposed to a hundred (100) people or fifty (50) cars driving into that parking lot twice a week, maybe. So that's a significant...

DARLENE CORDARO: I think they get together more than twice a week, though, from my understanding.

LARRY O'SULLIVAN: Okay.

JIM SMITH: Could you identify yourself?

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MICHAEL PACIELLO: [Indistinct] introduce myself. I'm representing the Congregation of Jehovah's Witnesses that meet there, give you a little bit more information about the meeting structure.

LARRY O'SULLIVAN: Thanks.

MICHAEL PACIELLO: There are two (2) congregations that meet in that building and meet four (4) times a week minimum. And there are actually meetings every day, smaller groups tending to be in the neighborhood of a half a dozen cars, maybe up to fifteen (15) in a given day. On the four days that there are meetings, which are twice on Sunday, also on Wednesday, once on Wednesday, one congregation on Wednesday and then the other congregation is on Thursday, there will be up to a hundred (100) or more individuals that are attending, so likely fifty (50) to sixty (60) cars...perhaps at that much, that often.

LARRY O'SULLIVAN: So four (4) times a week.

MICHAEL PACIELLO: So that's the current traffic that's going on during that time. And those meetings take place on Wednesday nights between 7:00 and 9:00 at night, a little later than that, just because of going in and out. A little earlier just to get there. Same thing on Thursday night and then on Sunday, there are continuous meetings that start at 9:30 in the morning and end roughly around 2:30 in the afternoon.

LARRY O'SULLIVAN: Thank you.

JAYE TROTTIER: Can I just get your name?

MICHAEL PACIELLO: Michael Paciellio.

JAYE TROTTIER: Can you spell that?

MICHAEL PACIELLO: P, as in Paul, -A-C-I-E-L-L-O.

JAYE TROTTIER: Thank you.

JIM SMITH: So currently we have activity of significance on two (2) weekdays and Sunday.

LARRY O'SULLIVAN: Right.

JIM SMITH: At present. So with your use, you're proposing to go Monday through Friday, which would then be five (5) weekdays and no activity on the weekends?

DARLENE CORDARO: Correct.

JIM SMITH: Any other questions or comments? Jay? James?

JAMES TOTTEN: What's the current zoning on this property?

269 JIM SMITH: AR-I.
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271 JAMES TOTTEN: It's AR-I?
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273 LARRY O'SULLIVAN: Right.
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275 JIM SMITH: Yup.
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277 JAMES TOTTEN: With a variance for a church?
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279 JIM SMITH: Correct.
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281 LARRY O'SULLIVAN: Well, wait a minute. I don't think so.
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283 JIM SMITH: No, that's not a variance.
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285 LARRY O'SULLIVAN: Yeah, there's no variance there. There's a...
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287 JIM SMITH: The church is a permitted use, correct?
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289 RICHARD CANUEL: Religious facilities are permitted in the AR-I zone.
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291 JIM SMITH: So we're going from a permitted use...
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293 LARRY O'SULLIVAN: To a non-permitted...
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295 JIM SMITH: ...to a non-permitted use.
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297 JAMES TOTTEN: Okay.
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299 JIM SMITH: Something similar to what we had with the Victory Baptist Church building.
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301 LARRY O'SULLIVAN: Yup. Right up the street.
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303 RICHARD CANUEL: Exactly.
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305 JIM SMITH: Are you familiar with that?
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307 JAMES TOTTEN: No.
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309 JIM SMITH: If you go down Mammoth Road, there's a daycare now that used to be the Victory Baptist Church.
310 A large building on the left side as you're going south.
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312 JAMES TOTTEN: Yes, actually, I'm very familiar with it.
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314 JIM SMITH: Okay.
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316 NEIL DUNN: Richard, do you know what the...I mean, that's obviously on the border of going into a
317 commercial, or the 102 overlay or...?
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319 LARRY O'SULLIVAN: It's real close to the overlay.
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321 RICHARD CANUEL: Well, yeah, it's close to the overlay area there. I mean, the property is surrounded by
322 other residential properties, but it's not too far from that commercial zone.
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324 JAY HOOLEY: And it's a conditional use in that zone.
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326 RICHARD CANUEL: Excuse me?
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328 JAY HOOLEY: Conditional in the 102 overlay?
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330 RICHARD CANUEL: There are daycare facilities that are...
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332 JAY HOOLEY: Yeah.
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334 RICHARD CANUEL: ...yeah, that are allowed as a conditional use. Yeah. In the overlay district. That's right.
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336 JAY HOOLEY: Right.
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338 LARRY O'SULLIVAN: But this is not inside the overlay district.
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340 JAY HOOLEY: No.
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342 LARRY O'SULLIVAN: It's close to it only.
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344 JAY HOOLEY: Right.
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346 LARRY O'SULLIVAN: It doesn't actually border it, though.
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348 RICHARD CANUEL: No.
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350 LARRY O'SULLIVAN: It's what, three (3) houses, four (4) houses away?
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352 NEIL DUNN: Two (2).
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354 LARRY O'SULLIVAN: Two (2) houses?
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356 NEIL DUNN: Well, [indistinct].
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358 LARRY O'SULLIVAN: Two (2) lots, yeah. My suspicion is that there were yards that people use as a cut through
359 to get from...not from Kendall Pond...Perkins Road? No, I'm sorry. What's the name of this road here?
360 Kendall Pond. It is Kendall Pond, yeah? To Mammoth. People drive through yards, homes, to get a short cut
361 so they wouldn't have to bang a hard left. And we had people coming in because somebody wanted to put a, I
362 think it was a hairdresser, in a number of years ago. Remember when we had that and we...I think they
363 wound up putting huge boulders between their property and the street on Mammoth Road so they could get
364 in on Kendall Pond Road. But no cars then could travel through there. So if you're planning on having a
365 driveway that's visible from Mammoth to Kendall Pond, that's like a thru street.

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367 JAMES CORDARO: Well we could always put a gate on it, too. We would be open to doing that.

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369 JIM SMITH: Why do you wanna have that entrance? What's the object of it?

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371 JAMES CORDARO: Exposure. Just another way to get in and out. It's not an absolute deal breaker if we
372 couldn't do it. It's just we wanted to just present it now for down the road. It may get bigger and it may
373 present itself as an opportunity, so we didn't want to have to come back and go through the whole process
374 again. We figured we'd just ask for everything in one shot and see how that worked out.

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376 NEIL DUNN: We don't have any control over that, do we Richard? Didn't you say it does to the State?

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378 RICHARD CANUEL: Well, that's something that the Planning Board would consider when they go to site plan
379 review.

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381 NEIL DUNN: Right. Okay.

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383 RICHARD CANUEL: They would consider the traffic impact, the sight distances, and so forth, but the driveway
384 permit itself would have to be approved by the State.

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386 LARRY O'SULLIVAN: Are they going to need a site plan review just because of the change in use?

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388 RICHARD CANUEL: Exactly. Absolutely. Yup.

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390 LARRY O'SULLIVAN: So you're aware of that.

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392 DARLENE CORDARO: Yes.

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394 JAMES CORDARO: Oh, yes.

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396 RICHARD CANUEL: Yes they are.

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398 JIM SMITH: Well the plan that's presented here shows that area as a treed area, which...

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400 JAY HOOLEY: Looking at where that driveway would theoretically be opposite Boulder, I can see that. You
401 may have some issues that...you know, if this hinged on that, I'd be cautious.

403 LARRY O'SULLIVAN: There's no doubt in my mind.
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405 JAY HOOLEY: Yeah.
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407 LARRY O'SULLIVAN: I mean, people were driving across people's lawns in the past...
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409 JIM SMITH: Yeah.
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411 LARRY O'SULLIVAN: ...to make that cut over, so if there's a pathway, they're gonna use it.
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413 JIM SMITH: In the site plan review, what regulations would they be following? Or would we have to make a...
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415 RICHARD CANUEL: Well, they'd be following the site plan regulations as applied by the Planning Board. I
416 mean, if there's any issues with the reduction of green space that would be involved with that, because, like
417 you say, you're looking on that map and that access is shown as a treed area. But that's part of the overall
418 green space for the lot. If there's any reduction that's required as part of that access, they would then have to
419 come back to this Board to request a variance to do that. Because that's part of our zoning ordinance.
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421 LARRY O'SULLIVAN: But that's why he's asking now, so...
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423 RICHARD CANUEL: Right. Yup.
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425 JIM SMITH: Where on the lot would you be putting the play area?
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427 LARRY O'SULLIVAN: I was trying to figure out where the other green area is if you're gonna have a driveway
428 there.
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430 DARLENE CORDARO: When we talked to licensing, there's, on the side of the building, there's grass and they
431 suggested that we put in a door there and we put, for the younger kids there, and then...I don't know which is
432 the back, but toward the back, there's also grass there and we were gonna put the play yard there. So we
433 were gonna have two (2) separate play yards, one for the younger children and one for the older children.
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435 JAY HOOLEY: So looking at the property from Kendall Pond, the play area would be behind the building?
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437 DARLENE CORDARO: Behind the building and one to the left of the building.
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439 JAY HOOLEY: So, in this, what is the leachfield, I believe.
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441 JAMES CORDARO: Yes, it would be down in that area.
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443 JAY HOOLEY: Okay.
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445 LARRY O'SULLIVAN: Is there public sewer on that lot?
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447 JAMES CORDARO: No.

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RICHARD CANUEL: No. There's public water, but not public sewer.

NEIL DUNN: Richard, if I may, we're just approving the use, we're not approving the green space or any of those other setbacks?

RICHARD CANUEL: No.

NEIL DUNN: Okay, I thought I heard that we were going for the whole match here and we're not.

RICHARD CANUEL: Well, like I said, if they were looking to get that access to Mammoth Road, which would be through that treed area, if there was any reduction of the green space, then they would have to come back to the Board to request a variance for that, but at this point, it's strictly for the use.

NEIL DUNN: Thank you.

LARRY O'SULLIVAN: No, he did mention that...she...Miss Cordaro did mention that there was a driveway to Mammoth Road that was part of the presentation, so...

JIM SMITH: But the variance was only for the use.

RICHARD CANUEL: Right.

LARRY O'SULLIVAN: Gotcha.

JIM SMITH: Any other questions? Comments? Seeing none, we'll open it up to anyone who is in favor of this. Anyone in opposition or have questions? We're not getting a lot of audience participation tonight. Seeing none, we'll bring it back to the Board.

NEIL DUNN: I'm good.

JIM SMITH: We've got a change of use.

LARRY O'SULLIVAN: Are you looking at...?

JIM SMITH: Well, I'm just trying to figure out what the hardship is.

JAMES CORDARO: Well, the hardship would be that you have a commercial building in a residential area. No matter what goes in there, other than another church, everyone's gonna need a change of use.

JIM SMITH: Okay.

NEIL DUNN: Did you wanna make a house out of it?

[Laughter]

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JIM SMITH: Well, no, I mean, we're in the dilemma that we have a building which is a permitted use as a church, which fits the zone. Now, for some reason, the religious group wants to sell their building. The obvious party to sell it to would be another religious group. Obviously, I guess, there hasn't been any takers on that. But they still wanna sell the building. So now the only other possibility at this point is someone who wants to daycare, which is not a permitted use. And that's where we're at.

LARRY O'SULLIVAN: You can turn it into a great, you know, bar and restaurant, too, but it's also out of the zone, so...

JIM SMITH: Right.

LARRY O'SULLIVAN: ...we have to treat it the same.

JIM SMITH: Right. So the hardship is you got a big building that no one wants it as a church, it's not something that would lend itself for residential use very quickly or easily, so...

JAY HOOLEY: But the only thing that allowed it to be constructed there to begin with was that specific, unique use...

JIM SMITH: Right.

JAY HOOLEY: ...for which it was built.

JIM SMITH: Right. It was built for a specific use. I think it would be...

NEIL DUNN: Well, back in the day, though, back in 4/17/73 was when the original request was to build a church in a res area, so at that time it was given a variance.

LARRY O'SULLIVAN: Right.

NEIL DUNN: It was denied and then granted. But we're saying now they would have not needed a variance, or they would have because it would have been a conditional thing?

LARRY O'SULLIVAN: They wouldn't have needed a...[indistinct]

JAMES TOTTEN: No...

LARRY O'SULLIVAN: ...today it wouldn't need a variance.

NEIL DUNN: My point is they got the variance to put it in there.

JIM SMITH: What year was that?

LARRY O'SULLIVAN: Seventy three ('73), was it?

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NEIL DUNN: Seventy three ('73).

LARRY O'SULLIVAN: Before my time.

JIM SMITH: 'Cause part of what we...the zoning regulations have...are in constant flux. So obviously it must have been changed into an acceptable use after that variance, then.

RICHARD CANUEL: Yeah, which makes that variance moot.

JIM SMITH: Yeah.

RICHARD CANUEL: Yeah, it's not applicable any longer.

NEIL DUNN: No, right, but I'm just saying it was...it wasn't just...

LARRY O'SULLIVAN: Religion [indistinct].

NEIL DUNN: It was varianced in. So it's similar to what's going on right here now, I guess, in that respect. At the time.

LARRY O'SULLIVAN: Mm-hmm.

JIM SMITH: Okay. Any other questions? Comments? Any other comments that you'd like to make?

DARLENE CORDARO: No.

JIM SMITH: At that point, I'll close the hearing and we'll go into deliberations.

DELIBERATIONS:

LARRY O'SULLIVAN: I think we have the same set of circumstances as we had on Mammoth Road with...was it the Baptist Church?

JIM SMITH: Well, I think that was a little bit different in the fact that they actually did have a school there.

LARRY O'SULLIVAN: While it was a church.

JIM SMITH: Right.

LARRY O'SULLIVAN: Right.

JIM SMITH: So you had a similar use to what is...what was proposed. In this case, it's strictly been used as a church, which makes it slightly different.

583 JAMES TOTTEN: Was there a variance...
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585 JIM SMITH: Say again?
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587 JAMES TOTTEN: ...granted for that school?
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589 LARRY O'SULLIVAN: Mm-hmm.
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591 JAMES TOTTEN: For the Victory Baptist?
592
593 LARRY O'SULLIVAN: Yes.
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595 JAMES TOTTEN: When it was a church or when...?
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597 JIM SMITH: No, I think the...
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599 LARRY O'SULLIVAN: When they took the church out of it...
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601 JIM SMITH: ...the daycare was part of the religious activity originally. The school.
602
603 JAMES TOTTEN: Right. So, but to have both the religious and the daycare as one, they would have needed a
604 variance for the daycare?
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606 JIM SMITH: No. Not as the church.
607
608 JAMES TOTTEN: No? Not as a church?
609
610 JIM SMITH: Because that was just an extension of the church activity.
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612 LARRY O'SULLIVAN: When they moved the church out, they need a variance.
613
614 JIM SMITH: Right.
615
616
617 LARRY O'SULLIVAN: A use variance.
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619 JIM SMITH: Right.
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621 LARRY O'SULLIVAN: Which we gave 'em. I think it took a couple of years to actually sell the building after that,
622 too, by the way.
623
624 JIM SMITH: Yeah.
625

626 LARRY O'SULLIVAN: But anyway, the net of it still is the circumstances are significantly different here anyway.
627 This building was built to be a church. Finding another use for it in a residential zone...like Neil's favorite thing
628 is, you can put...what is it? The ground up stones there or something?

629
630 NEIL DUNN: Rock crusher?

631
632 LARRY O'SULLIVAN: Put a rock crusher there and it's okay.

633
634 JIM SMITH: Well...

635
636 LARRY O'SULLIVAN: But the net of it still is there are going to be an awful lot of uses for a building like that
637 other than a school or a church. I mean, the best laid plans are these things last forever, but they don't.
638 Variances, by the way, do.

639
640 JIM SMITH: Yeah, that's [indistinct]. I'm gonna ask Richard a question. The leachfield was designed to
641 support the church activity.

642
643 RICHARD CANUEL: That's right.

644
645 JIM SMITH: Would it have capacity for this type of use?

646
647 RICHARD CANUEL: I don't think there's much difference. I don't know what the actual criteria is off the top of
648 my head, but I can't imagine that it's much different.

649
650 LARRY O'SULLIVAN: Isn't that a Planning Board thing anyway? Because they're gonna be doing a site plan?

651
652 JIM SMITH: No, well, I'm just wondering whether it will even fit.

653
654 RICHARD CANUEL: I was trying to see what their approval may have been for way back when. Let's see
655 here...I don't have anything later than '73, so...Yeah, it was based on a five (5) gallon per person flow rate. So I
656 don't know what that would equate to under today's standards. It's pretty minimal, a hundred fifty (150)
657 gallons per day total. That's very minimal, so...chances are there may be some difference there.

658
659 LARRY O'SULLIVAN: Eighty (80) kids there. You know, that's...

660
661 JIM SMITH: The reason I bring that up is when Victory Baptist Church tried to upgrade their septic system, we
662 ran into a loading problem. The lot really wasn't big enough for the building. So this could be a problem.

663
664 JAMES CORDARO: I have talked to Meridian Land Survey and they informed me that the system's working
665 right now, 'cause we're not gonna open up and have eighty (80) people or eighty (80) children there day one.
666 This might be two (2) years down the road before we get to that capacity. For twenty (20) children, the
667 system should be sufficient, plus they were gonna come out and do a test pit and we were gonna have a new
668 septic design drawn up so that if and when the system does fail, we're all set to go with the new system.

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670 JIM SMITH: I think we ought to put a restriction on...I don't know how to put this.

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NEIL DUNN: Won't the Planning Board get involved in the actual usage in making sure it does...I know yours was to kind of heads up everybody that it could be a bigger issues than maybe they really wanna go into, but is that what your thought is? Trying to...Would the Planning Board review...?

JIM SMITH: No, the Planning Board doesn't look at the septic system.

NEIL DUNN: Oh, they don't. They wouldn't say it's...

JIM SMITH: No. 'Cause I don't wanna, you know, get into a situation where we're allowing the use on a piece of property that isn't capable of supporting a septic system for that use. And you're suggesting that it's only for about a hundred and fifty (150) gallons, which is...

RICHARD CANUEL: Yeah, it's a pretty minimal design as it is now, so...

JIM SMITH: Pretty minimal design.

RICHARD CANUEL: Yeah, I don't know what the criteria is for a daycare off the top of my head. I don't have those standards in front of me, but I'm sure it's gonna be certainly different than what it's designed for now, but I can't imagine it would be much more.

LARRY O'SULLIVAN: Really.

NEIL DUNN: Well, you're not showering and...

LARRY O'SULLIVAN: All I'm thinking about is flushes per kid.

DARLENE CORDARO: But then a lot of them are in diapers, too.

NEIL DUNN: Yeah.

LARRY O'SULLIVAN: Then you're looking at where do you put the trash bins, you know? I'm just...

NEIL DUNN: I don't know, what are you thinking? Wait for more information or...?

JIM SMITH: No, I [indistinct].

NEIL DUNN: I appreciate where you're going, though, Jim. I kind of agree with that. I mean, we hate to say yes, you get the variance, and they get the...the sale goes through and then...

LARRY O'SULLIVAN: Bad news.

NEIL DUNN: ...they can't use it. I mean...

LARRY O'SULLIVAN: [Indistinct] get the bad news [indistinct], this isn't gonna fly.

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JIM SMITH: No, I think if we simply restrict the variance to the successful sale of the property to this couple, that should cover it. 'Cause I would think they would, in their due diligence, they would wanna have an evaluation as to whether or not they can put a septic system in there.

NEIL DUNN: And can they put ten (10) kids to start or twenty (20) or whatever until they get to the point, right? Yeah.

JIM SMITH: Yeah.

NEIL DUNN: That's a valid point.

JIM SMITH: Okay. Having said that, any other comments?

RICHARD CANUEL: Well, if it's any consolation to the Board, I can tell you, you know, based on the soil types of the previous design and the low water table, there's certainly adequate area to increase leachfield size if need be, so I can't see any reason why, you know, an additional design would not fit on that lot, so...

JIM SMITH: Okay. I'm just bringing it up because I know from experience what we had the Victory.

RICHARD CANUEL: Right, yeah. Yeah, and then they're stuck with a property they can't do anything with.

JIM SMITH: Exactly. They had a very large building with a leachfield that didn't even come close to...

NEIL DUNN: Mm-hmm. No, I appreciate that. That's great of you to come up with that.

JIM SMITH: Okay. Now, having said that, any other comments? If not, I would be looking for a...

LARRY O'SULLIVAN: Motion with that restriction?

JIM SMITH: Yeah. Well, pending the sale of the property to this couple. I think that would be the restriction I would be hoping for.

RICHARD CANUEL: Also, if I could just advise, being that they do need to go to the Planning Board for site plan review, I would probably include that as part of your approval condition.

LARRY O'SULLIVAN: Okay. After Planning Board review? So, sale of property to Mr. and Mrs. Cordaro after Planning Board review?

JIM SMITH: No, "and"...

LARRY O'SULLIVAN: And Planning Board review. Okay, I'd like to make a motion to approve case 5/16/2012-3 as presented, with the restriction of the sale of the property to Mr. and Mrs. Cordaro and Planning Board review.

761 JIM SMITH: Do I have a second?

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763 JAY HOOLEY: Second.

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765 JIM SMITH: Jay. Jay seconds. All those in favor?

766

767 NEIL DUNN: Aye.

768

769 LARRY O'SULLIVAN: Aye.

770

771 JAY HOOLEY: Aye.

772

773 JAMES TOTTEN: Aye.

774

775 JIM SMITH: Aye.

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777 RESULT: THE MOTION TO GRANT CASE NO. 5/16/2012-3 WITH RESTRICTIONS WAS APPROVED, 5-0-0.

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780 RESPECTFULLY SUBMITTED,

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785 NEIL DUNN, CLERK

786 TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

787

788 **APPROVED AUGUST 15, 2012** WITH A MOTION MADE BY LARRY O'SULLIVAN, SECONDED BY NEIL DUNN AND

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APPROVED 4-0-1 WITH MATT NEUMAN ABSTAINING AS HE HAD NOT ATTENDED THE MEETING.