

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

DATE: JULY 20, 2011

CASE NO.: 6/15/2011-1 (CONTINUED)

APPLICANT: RYDER DANIELS  
DEBORAH LACK  
22 KELLEY RD  
LONDONDERRY, NH 03053

LOCATION: 28 KELLEY ROAD, 12-34, AR-I

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

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

REQUEST: APPEAL OF AN ADMINISTRATIVE DECISION OF THE PLANNING BOARD

PRESENTATION:

At the June 15, 2011 hearing, J. Hooley requested a recusal from hearing or voting on the case because Paul Beal of 28 Kelley Road is his employee. The consensus was to allow J. Hooley to recuse himself. J. Hooley again recused himself from this continuation of the hearing.

Clerk Neil Dunn read Exhibit "A" into the record, a letter from the Town Attorney.

LARRY O'SULLIVAN: So it seems like what he's saying, in fact, is that we don't have the authority to hearing an appeal for their decision for this case. Therefore, I don't think we have any need to go any further with this. I suspect the applicant may want to say something, however, given the circumstances, I don't know. Are you ready, Matt?

MATT NEUMAN: As ready as I'll be.

LARRY O'SULLIVAN: Okay.

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MATT NEUMAN: Yeah, I agree. I'm not even sure, is a motion even needed in this case?

LARRY O'SULLIVAN: No.

NEIL DUNN: Well, I would think we'd have to vote.

LARRY O'SULLIVAN: Why would we? We don't have the authority to do anything about it.

MATT NEUMAN: Other than maybe a motion to deny?

NEIL DUNN: Did you want any input from the applicant?

LARRY O'SULLIVAN: You want to find out what we're going to do first, right? What your thought is...?

MATT NEUMAN: Yeah, I mean, we don't have jurisdiction over this matter, so...

NEIL DUNN: We still, I would think, have to deny or approve the appeal, don't we?

MATT NEUMAN: In this case, I'm not sure if that's even necessary.

RICHARD CANUEL: I see you looking, so I know you have a question. Being that there was an application to the Board for an appeal, the Board has to make a decision whether to grant or deny. At this point, with advice from Town Counsel that the Board doesn't have jurisdiction to hear the appeal, I would deny the appeal based on that advice. Plain and simple.

MATT NEUMAN: Anyone ready to make a motion?

LARRY O'SULLIVAN: You want the motion right away?

MATT NEUMAN: I mean, I don't think that we need to go any further.

JIM SMITH: Does the applicant's attorney want to say...make any statement?

JEFFREY SPEAR: I think you won't be surprised to hear me say, I mean based on what I said at the last meeting, I think that's the correct result. We did this out of an abundance of caution, it clears the way without challenge to the case in Superior Court where it belongs, but this was a step we needed to take. I agree that you should make a motion denying, based on the lack of jurisdiction.

MATT NEUMAN: Right.

LARRY O'SULLIVAN: Mr. Chairman, I'd like to make a motion to deny the application of 6/15/2011-1 as this Board doesn't have the authority to make a decision.

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88 MATT NEUMAN: Do I have a second?

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90 JIM SMITH: I'll second.

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92 MATT NEUMAN: Alright, we've got a motion to deny. All those in favor of the motion?

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94 LARRY O'SULLIVAN: Aye.

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96 NEIL DUNN: Aye.

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98 JIM SMITH: Aye.

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100 MATT NEUMAN: Aye.

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102 MICHAEL GALLAGHER: Aye.

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104 MATT NEUMAN: Opposed?

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106 [no response in opposition]

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109 RESULT: THE MOTION TO DENY CASE 6/15/2011-1 WAS APPROVED, 5-0-0

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112 RESPECTFULLY SUBMITTED,

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117 NEIL DUNN, CLERK

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118 TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

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

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