

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

DATE: APRIL 21, 2010

CASE NO.: 4/21/2010-4

APPLICANT: 5 M'S REAL ESTATE HOLDINGS, LLC
33 NASHUA ROAD
LONDONDERRY, NH 03053

LOCATION: 33 NASHUA ROAD, 7-73-3, C-1

BOARD MEMBERS PRESENT: MATTHEW NEUMAN, ACTING CHAIR
NEIL DUNN, VOTING MEMBER
JIM SMITH, VOTING MEMBER
JOE GREEN, VOTING ALTERNATE
JAY HOOLEY, NON-VOTING ALTERNATE
LARRY O'SULLIVAN, CLERK

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

REQUEST: VARIANCE TO ALLOW A SECOND WALL SIGN WHERE ONLY ONE SIGN IS PERMITTED PER SECTION 3.11.6.4.3.2.

PRESENTATION: Case No. 4/21/2010-3 was read into the record with 14 previous cases listed.

JIM MCGOVERN: Good evening, gentlemen and Jaye. My name is Jim McGovern and I am a General Manager and a partner with 5 M's Auto Group and 5 M's Real Estate Holdings. I reside at 1 Steele Street in Stoneham, Massachusetts and I'm here asking for relief under Section 3.11.6.4.3.2 zoning bylaw. I've been with this company for twenty five (25) years for a small group. We only have a couple other dealerships. This one I'm a partner in and I'm here...

[coughing]

JIM MCGOVERN: ...every single day.

LARRY O'SULLIVAN: Sorry.

JIM MCGOVERN: A little bit of history on the property. We, as you're probably aware of, bought it in January of 2007 and when we bought the property, we had an agreement with Ford Motor

Company to upgrade the facility. And that was to be done within three (3) years, which we're right at the cusp now. And part of that requires certain signage from Ford. I did bring some handouts so you can see what...

[coughing]

JIM MCGOVERN: ...proposed to do [applicant distributes copies of Exhibit "A" to Board members].

LARRY O'SULLIVAN: Can I get your name again?

JIM MCGOVERN: Jim McGovern.

LARRY O'SULLIVAN: McGovern? Thank you.

JIM MCGOVERN: Some of what's in there are...the first photo is what it was, okay? So you get a look at that. The second item in there is more or less what Ford proposed. They have a retail sign identification program that we understand was way outside of the boundaries of what should fit. And we knew that was wrong. So we went back to the drawing board, obviously. If you skip past the next one with the words "Londonderry" to the far right, that and the oval are what we submitted for our original permit, which was denied. And then we submitted for just the oval that says "Ford" on it, which is twenty one (21) square feet. That is presently on the building. We received a permit for that and that is presently on the building. So everything that was there before is gone and right now, that's all that's on there. The next page shows what we have had Ford agreed to and that's what we propose to add. The situation is that the sign is slightly...if you put the word "Londonderry" and the oval together, they're slightly less than the required for one sign, which is the fifty (50)...is it fifty (50) or fifty two (52) square feet?

RICHARD CANUEL: Fifty (50) square feet maximum.

JIM MCGOVERN: Fifty (50) square feet, so I think this comes in a couple of feet under that. But it is now two (2) signs, not one (1). I added...

JIM SMITH: You've got two (2) pictures which are identical. Are they supposed to be?

LARRY O'SULLIVAN: They're pretty much identical, yeah.

NEIL DUNN: I think that's supposed to have the "Londonderry" in there in a smaller overlay or something.

JIM MCGOVERN: I'm not sure what you're looking at there, Jim.

UNIDENTIFIED [assistant of applicant]: On the photograph?

JIM SMITH: Yeah.

LARRY O'SULLIVAN: Yeah, the photograph.

JIM MCGOVERN: [indistinct] photograph?

UNIDENTIFIED: That's just the same...

[overlapping comments]

JIM MCGOVERN: That's just two (2) pictures of the same...yeah.

JIM SMITH: Okay.

JIM MCGOVERN: Just two (2) shots.

LARRY O'SULLIVAN: It's the one for us to bring home.

JIM MCGOVERN: Yeah. Exactly. And I put those pictures of the old and the new in case you haven't been by or whatever, that's what we have now. And we can address the five (5) points of law unless you guys have other questions you'd like to hit...

MATT NEUMAN: No, why don't you just go right into...

LARRY O'SULLIVAN: Do we see what this is going to look like finished? I don't see what it's gonna look like finished.

JIM MCGOVERN: Yeah...

NEIL DUNN: A combination of the...

JIM MCGOVERN: Finished? Yeah, you're right. 'Cause...you're right. The oval on the left and the "Londonderry" to the far right is what we've proposed. You're right. I don't have a drawing of that.

NEIL DUNN: The smaller "Londonderry"...

MATT NEUMAN: The word "Londonderry" is going to...?

JIM MCGOVERN: That, with the "Londonderry" and the oval on the other page is already on the building.

MATT NEUMAN: Right, so that...but that is where "Londonderry" will be...?

JIM MCGOVERN: That's where we wanna put it to the right.

MATT NEUMAN: See that, Larry?

JOE GREEN: There you go, Larry.

LARRY O'SULLIVAN: Yes, I do. Just throw it in there, Joe. Go ahead.

JIM MCGOVERN: They gave me a lot of different drawings but not that.

LARRY O'SULLIVAN: So I guess since I don't have that square footage mapped out anyplace here, what are we talking about?

JIM MCGOVERN: Well, it's in two (2) separate places. If you look at the words "Londonderry" by itself...

JOE GREEN: It's in the blocks, there.

LARRY O'SULLIVAN: Oh, I'm sorry. I didn't see that.

JIM MCGOVERN: And then it shows beneath it, it says it's twenty eight (28)...

LARRY O'SULLIVAN: Point five (.5).

JIM SMITH: Twenty one (21).

JIM MCGOVERN: ...point five (.5) square feet.

LARRY O'SULLIVAN: Right.

JIM MCGOVERN: Non-illuminated.

JIM SMITH: Oh, "Londonderry" is twenty eight (28), yeah.

JIM MCGOVERN: Yeah, "Londonderry" is twenty eight (28). And the other one in the oval is twenty one (21).

LARRY O'SULLIVAN: You get fifty (50)?

JIM MCGOVERN: Yeah, I think we're half a foot below that, right?

JIM SMITH: So you've got a total of forty nine point five (49.5).

JIM MCGOVERN: There you go.

NEIL DUNN: Right.

LARRY O'SULLIVAN: But it's two (2) signs.

JIM MCGOVERN: It's two (2) signs.

LARRY O'SULLIVAN: As opposed to one (1). And that's why you're here.

JIM MCGOVERN: And that's why we're here, yup.

LARRY O'SULLIVAN: Okay.

JIM MCGOVERN: Okay?

LARRY O'SULLIVAN: Now I see.

MATT NEUMAN: You got it, Larry?

JIM MCGOVERN: That's okay. The first point of law, that the variance will not be contrary to the public interest. There will not be any adverse effect on the public interest if the sign were granted. By allowing the variance, the business would be, you know, identified with the company's name on the building and just a public location of the business. We try to keep it simple and...simple and sweet there. And the second point where the spirit of the ordinance is observed. The spirit of the ordinance is observed in the fact that the overall square footage of the sign is within the requirements and only the name and the nature of the business is indicated. It's really due to trust mark issues with Ford. The oval and the dealership name must be separated as to depict Ford Motor Company products on sale at a location of Londonderry. So...substantial justice is done. Basically, there, the injustice would be capable of relief by granting the variance as it meets all qualifications as to allowing the proper identification of the business and to what services are offered, once again. The values of surrounding properties are not diminished. The value of the surrounding properties would not be diminished by granting the variance as it is within the required square footage and states only the brand and the name of the town. All the abutting properties are commercial retail in nature, I believe. And then for purposes of unnecessary hardship means that...well, no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property. Ford of Londonderry is trying to satisfy, really, both the requirements of the Town and Ford Motor Company requirement of separating the oval and the dealer name and it's strictly for trust mark issues that they have.

JIM SMITH: What do they mean by "trust mark" issues?

JIM MCGOVERN: Yeah, it's the way all Ford dealerships are supposed to be. That's actually a trust mark look, if you will. Today, if you were to say, be granted a point and say, you know, we wanna put a new point in a town, that's what they tell you it has to look like. So, the way the building has been built and the design of it really isn't ours. It's Ford Motor Company's. Like McDonalds, they all look the same. And that's kind of what they mean by trust mark, so you won't see any of these new

buildings that are up with anything next to the oval. Couldn't give you a real good answer as to why. I even asked that today with the sign I.D. people but here and here, they want everything separated.

LARRY O'SULLIVAN: They would want you to put "Plymouth" right next to it, that's why.

JIM MCGOVERN: Yeah, exactly. The proposed use is a reasonable one. The proposed use is a reasonable one as it falls within the overall square footage, again, required by the Town and the signage also just states the brand, exemplified by the Ford oval and the name of the town as exemplified by the word "Londonderry." Our request for relief under the zoning bylaw does not disregard the intent of the bylaws. And then if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist and, if only, owing by special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance and the variance is therefore necessary to enable a reasonable use of it. Ford Motor Company requires that the signage is displayed as outlined on the permit application and Ford of Londonderry. Once again, we're trying to work with the Town and Ford Motor Company. And there requirements, as I noted, are for newly remodeled facilities and just allowing the public to know the brand of services, the products sold and the name of the business.

MATT NEUMAN: Okay. Thank you. Questions?

JIM SMITH: My first question would be, was the ordinance as we have it in this town presented to Ford Motor Company and what was their reaction?

JIM MCGOVERN: Yeah. I spoke with them today. We probably have some fifteen (15) different drawings of what they wanted, which they're gonna shoot for the moon, exactly the way they want it, up front. And so we got together with Rich [Canuel] and got the requirements and what it was, so, we went back and forth a couple times as to what they wanted and what we wanted to fit within the Town. And that was the compromise, the oval on the top left and the name to the far right. I spoke with them about a couple of things today and, yeah, they're pretty picky, no doubt.

NEIL DUNN: So they were willing to cut...they were willing to keep it within the fifty (50) square feet...

JIM MCGOVERN: Oh yeah.

NEIL DUNN: But that's about...

JIM MCGOVERN: Non-illuminated on the letters. The oval that's Ford is illuminated right now.

LARRY O'SULLIVAN: And that's Ford, that's not Hallmark, that's Ford. Big company.

NEIL DUNN: Richard, just...the first picture in the handout, I believe you got one?

RICHARD CANUEL: Yes.

NEIL DUNN: It says "Ford Londonderry" where there was obviously two (2) different signage. Was there a variance granted for that and therefore...?

JOE GREEN: I didn't hear that one...

RICHARD CANUEL: I don't know if that was one of the variances or not, but, you know, that was a preexisting condition that, of course, no longer exists, so it's sort of a moot point, but...

NEIL DUNN: Well, no...well, if the variance was granted, then wouldn't the variance still stand?

LARRY O'SULLIVAN: No.

RICHARD CANUEL: No. No because the sign is gone.

NEIL DUNN: I thought...

[overlapping comments]

RICHARD CANUEL: The sign's gone.

JOE GREEN: The variance isn't for the property?

LARRY O'SULLIVAN: Once it's gone, it's gone.

RICHARD CANUEL: The sign is gone.

JOE GREEN: Okay.

RICHARD CANUEL: Yes.

JOE GREEN: I thought what you thought, it was for the property.

RICHARD CANUEL: Yup, no.

LARRY O'SULLIVAN: Well, this isn't an area variance...

RICHARD CANUEL: No. That variance was granted specifically for that sign, if that was the case.

NEIL DUNN: Oh, okay. That's all I was looking for...

RICHARD CANUEL: That sign's gone, so...

NEIL DUNN: Okay, thank you.

RICHARD CANUEL: It's a moot point. See, the issue is, you know, I looked at this two different ways. Number one, I looked at it as two (2) different signs. If they are two (2) separate signs, they exceed what's allowed by the ordinance, which they can only have one (1) wall sign. Or I could have applied the area requirements for individual letters and symbols, which requires that you encompass the entire smallest rectangle that encompasses all of the letters and symbols, in which case, they would have far exceeded the fifty (50) square foot allowed, simply because corporate requires that they be separated by a certain distance. So, the lesser impact would be the two (2) separate signs, rather than the larger area, so...

MATT NEUMAN: And, just one other point with you Richard, if "Londonderry" was going to be on the other side of the building, then it wouldn't be an issue?

RICHARD CANUEL: That was an issue we discussed as well, simply because it's a corner lot...

MATT NEUMAN: Right.

RICHARD CANUEL: ...they are allowed to have...

LARRY O'SULLIVAN: Two (2) signs, right.

RICHARD CANUEL: They can split up that fifty (50) square to two (2) building faces. Again, that's a corporate policy that did not allow them to do that, so...Yeah, we looked at that option too.

MATT NEUMAN: So your hands are pretty tied with Ford.

JIM MCGOVERN: Yeah, to this point it is. I think I've come a long way with them from what they originally wanted and, yeah, we've pushed them pretty hard to make it fit here. So, they could...anything else I go back with, they could easily say 'no,' that 'you can't do that.' They can deny that.

MATT NEUMAN: Would they be fine with just "Ford"?

JIM MCGOVERN: Don't know. Don't know.

MATT NEUMAN: Just a bigger "Ford."

JIM MCGOVERN: I hope not because I just put that sign up and paid for it, so...

LARRY O'SULLIVAN: Why would we want that?

JIM MCGOVERN: ...I don't wanna have to do that again. Well, and I think the oval that's there looks appropriate for the size of the building 'cause it really isn't that big. So that I think that oval that we did put there, although they wanted it bigger...

MATT NEUMAN: Mm-hmm.

JIM MCGOVERN: I think it fits their...I think it looks appropriate there.

NEIL DUNN: The freestanding one's not big enough for them?

JIM MCGOVERN: Yeah, well, that was before my time. Yeah, they would have made that bigger if they could have, too.

JOE GREEN: If they allowed it then to be right next to each other, huh?

JIM MCGOVERN: Yeah.

JOE GREEN: I guess they didn't have much choice on that one.

JIM MCGOVERN: Well, I think this on the front of the building, the old one, it used to say "Gladstone" and then it said "Londonderry." That was just strictly a name change. Ford, at that point, I don't think they were as worried about the retail identification as opposed to newly remodeled facilities. In this particular case, you didn't have a whole lot of choices.

JOE GREEN: Right.

JIM MCGOVERN: You go to a new facility like we have now, there's some room there. So, then you get into a little bit of a different ballgame.

MATT NEUMAN: Now, I know they're non-illuminated but will there be some sort of lighting projected onto it or...?

JIM MCGOVERN: No.

LARRY O'SULLIVAN: No backlighting or anything?

JIM MCGOVERN: The lighting around the building's...

LARRY O'SULLIVAN: Sufficient.

JIM MCGOVERN: ...another issue. It's not very good, but it is what it is right now. Most of the lighting that we have is provided from the...

NEIL DUNN: Street lights.

JIM MCGOVERN: ...street lights. The poles on the street.

MATT NEUMAN: Mm-hmm.

JIM MCGOVERN: Some of that comes in. It's not real bright, and no, it won't light the front of the building.

MATT NEUMAN: Is it the same blue as the Ford?

JIM MCGOVERN: Yes, it's that Ford blue, dark blue, yeah.

MATT NEUMAN: They require as that as well? Is it all uniform or is that...?

JIM MCGOVERN: Yeah. Yeah, it's...you can wander around in the shade a little bit but it's gonna be blue, yeah. Yeah.

LARRY O'SULLIVAN: Among the things we need to discuss is the hardship, the requirements that you got because of the, I'm sure because of the intersection and the way the road has been elevated over the years...

JIM MCGOVERN: Yeah.

LARRY O'SULLIVAN: ...to well above the height of the building...

JIM MCGOVERN: Exactly.

LARRY O'SULLIVAN: And since, I'm sure we're all aware, having lived here as long as we all have, that the access on and off of that and the downhill slope on the side building are another...are major issues that require lots of better identification of that building, so I have no issue with the hardship having been met here. Just on the location and the slope on that lot.

MATT NEUMAN: Yeah, the uniqueness of the property.

JIM SMITH: Has the Planning Board looked at this sign?

JIM MCGOVERN: No, I don't believe so, right? I don't think so.

RICHARD CANUEL: No.

JIM SMITH: Was there an updated site plan required for this?

RICHARD CANUEL: No, because there was no change. No change whatsoever. The addition that

was put on the building basically replaced what was there previously, so there was no site plan requirement.

JIM MCGOVERN: We did a site plan a few years ago, if you remember.

MATT NEUMAN: But the footprint didn't change?

JIM MCGOVERN: We did do one a couple years ago. But the footprint, no, the footprint didn't change. We didn't make it any larger.

LARRY O'SULLIVAN: You're not moving any freestanding signs, you're not...

JIM MCGOVERN: No.

LARRY O'SULLIVAN: ...adjusting any lot lines? There's no...

JIM MCGOVERN: No. Mm-hmm.

LARRY O'SULLIVAN: ...outlines or whatever.

JIM SMITH: From a philosophical point of view, I always have a problem with the idea that the company wants the Town to bend to them.

LARRY O'SULLIVAN: Always.

JIM SMITH: Rather than the company bending to the Town.

LARRY O'SULLIVAN: Absolutely. Every time. No doubt about it.

JIM SMITH: And to me, that's not a hardship. I mean, that's a corporate decision. That's not a hardship. It has nothing to do with the property.

JIM MCGOVERN: No, I agree, but the sign that they originally proposed was a lot bigger than this. So, I think what they have done is...I think they have tried to meet it by overall square footage. But I don't see how you can make that...you're not gonna let you make that one (1) sign.

MATT NEUMAN: Any further questions? Is there anyone in the audience that would like to...?

[overlapping comments].

MATT NEUMAN: Seeing no one rushing to the microphone, are there any other questions that we'd like to ask? You know, Richard brought up a good point that we should really be looking at the hardship.

LARRY O'SULLIVAN: Mm-hmm.

MATT NEUMAN: I know we just discussed a little with Larry, but, you know, Jim made a valid point. Are there any questions that anyone feels that we should ask before we go into deliberation?

LARRY O'SULLIVAN: I think I made my point with the special conditions of the property. That the raised road since the building was originally put up; 102 didn't used to be that high. As a matter of fact, the lighting, the traffic lights and there was a day when there was no traffic right there. It wasn't, you know, that long ago, really. But that building was. And I think that's...we built around it and I think what they've come up with in the way of their updates to their building, and to the property, have been more beneficial than what was there. But because of the special conditions of the property, on the hillside, and then on top of that, having the highway raised, they have the opportunity to have a real hardship if they don't do the signage at least the square footage wise. Whether it all be one (1) or separated signs, I think is a moot point, since it looks as if it's one (1) sign.

JIM SMITH: I have a question. Does Ford require the name of Londonderry to be on the building?

JIM MCGOVERN: No. If it was, say it was "Smith Motors," it could say, you know, it's named as...we named it "Ford of Londonderry." You know, marketing 101, we always go with the town. So that's why it's "Londonderry," 'cause it's "Ford of Londonderry" and we're not gonna put all that on there. It's not gonna say "Ford of Londonderry," so the compromise there is "Ford," "Londonderry."

MATT NEUMAN: But there is no requirement other than "Ford." They don't require that anything else be put up there?

JIM MCGOVERN: No. No.

MATT NEUMAN: Is that what you're asking?

JIM SMITH: Yeah.

JIM MCGOVERN: Did I get you right there, Jim?

JIM SMITH: Yeah, the point I was trying to raise, there isn't a requirement by Ford Motor Company that your name has to be on the building as well as the Ford logo?

JIM MCGOVERN: Well, yeah, otherwise if it, as I stated, if it was "McGovern Motors," then if I...if it was "McGovern Ford," it would probably say "Ford" and "McGovern." You have some name. Us, it's Londonderry, so, yeah, there should be something there other than just a Ford oval.

MATT NEUMAN: Did you...and just a question, did you at all entertain the thought of putting "Londonderry" on the Gilcrest side so it's not an issue as far as...?

JIM MCGOVERN: Well, if you look at the building from that side, it's not exactly square. It's not exactly flat. We've tried to put the property, kind of, back together piece by piece. We did a lot with some green space. We did a lot of planting. We will paint the entire building, again, to clean it up. The history of the company is we do keep our property and we keep it for a very long period of time and we keep it up. So, anything we'd ever come before the Board for, it's not big expansion. It's usually nicer, more well kept stuff. That's just the kind of people that I work with. That's just the way they are. Keep stuff nice. So, you know, we spent a lot of money here but we will probably, in time, go forward to clean up more as we go.

NEIL DUNN: Are there...is there more than one (1) business located in that building? Do you have your "parts" or your "auto body" or anything else? Are there two (2) different entities in the building?

JIM MCGOVERN: Yeah, you have the sales part, "service," there's "parts" inside the building. There's a body shop right behind it.

NEIL DUNN: Physically attached, in the same building? And is that a different business name, I guess, is...?

JIM MCGOVERN: Yeah, they're all 5 M's, but one's 5 M's Auto Body which is the second piece of property in the back. So there is another piece of property in the back that...

NEIL DUNN: But not physically attached to that building?

JIM MCGOVERN: Not physically attached to the building, exactly.

NEIL DUNN: Is "parts" separate from "sales"?

JIM MCGOVERN: Parts...

NEIL DUNN: I don't if, corporately, if you're structured with...

JIM MCGOVERN: No, "parts," "sales," and "service" are all in the same building. The body shop is just housed in the next, right behind us in the lot.

NEIL DUNN: And the only reason I was bringing that up, for the rest of the Board members, is because if we look at 3.11.6.4.3.2, saying one sign...if there were multi tenants in there and he had two (2) businesses in there, then he could have two (2) forty (40) foot square signs.

LARRY O'SULLIVAN: Right. I think that's...

NEIL DUNN: That's the only reason I'm bringing that up.

LARRY O'SULLIVAN: Agreed. Mm-hmm. And that's true for everybody, all the businesses in town. Not just this building.

MATT NEUMAN: Right.

LARRY O'SULLIVAN: So we need a better description of what the entity is then. Is it the building? Is it the location? Is it the size and...? But we've already worked for years and years trying to get our sign language in order. I mean, how long, Jim, do you remember? I mean, I've lived here for almost twenty six (26) years and I swear, every couple of years, where there would be another committee and they'd work for years to try and put together a sign ordinance. And the Planning Board has done a phenomenal job putting this one together. It's just I think we need some clearer definitions of what an entity is in the way of a business.

MATT NEUMAN: Mm-hmm.

LARRY O'SULLIVAN: However, that said...

MATT NEUMAN: Alright, does anyone have any further questions? Is the hardship an issue for anyone that they'd like to ask?

NEIL DUNN: Let me go back for a minute here, please.

MATT NEUMAN: No problem.

JIM SMITH: Neil?

NEIL DUNN: Yes?

JIM SMITH: If you go to the first plot plan right after the sign one, the building's are labeled "35," "2" and "56".

NEIL DUNN: Mm-hmm.

JIM SMITH: Fifty six ("56") is where the auto body shop is. That's a separate lot.

NEIL DUNN: And "2" is a separate lot also?

JIM SMITH: Yeah.

NEIL DUNN: Yeah, no, the only reason I was asking, Jim, I thought maybe there's the back service bay off Gilcreast, kind of across from the entrance to Micky D's.

LARRY O'SULLIVAN: Yeah.

NEIL DUNN: I didn't know if that was maybe more structured corporately-wise, if it was structured as independent from the other entities. So, again, you know, if he had two (2) entities in there, one (1) being the parts and repair and one (1) being another whatever, then he could have that...

MATT NEUMAN: A non-issue.

NEIL DUNN: Right, and that's why I was just looking for clarity and it gets back to kind of like your conceptual thing on the other one, you know, technically, there are two (2) different signs, so I guess that's why we're here but...I was just wondering if that was an option. But he's saying there's only one (1), so, in that case, it doesn't really work, but. So looking back at the hardship, I guess, is where I'd be.

MATT NEUMAN: Alright. I don't think we have any more questions or should we be deliberating at this point?

JOE GREEN: Alright?

MATT NEUMAN: Neil, do you feel like you've got anything else before we pull it back?

NEIL DUNN: No, I guess I'm good. Thank you.

LARRY O'SULLIVAN: Jay, you haven't put any two (2) cents in, so...

JAY HOOLEY: No. My only thought was it's very much a technicality that's not, in fact, one. It's a very stretched out sign...

LARRY O'SULLIVAN: Mm-hmm.

JAY HOOLEY: ...is one way to look at it. Or a sign that's...it's just broken into two (2) pieces. The total area of the sign is fine. It's just the fact that you've got some space...

LARRY O'SULLIVAN: Between them.

MATT NEUMAN: Right.

JAY HOOLEY: You know...so I struggle to see that it...I guess it's just a letter-of-the-law type thing. That's, you know, just absolutely...

LARRY O'SULLIVAN: Mm-hmm.

JAY HOOLEY: ...because it's broken.

LARRY O'SULLIVAN: Okay, the intention here is really what we have to look at, too. Right? So it isn't just as the letter. The intention of the ordinance, you know, and what we're attempting to do.

And it's, you know, in our Master Plan and I was checking that just a little while ago to make sure that the Master Plan didn't change all that much since that sign section and the attractiveness in town and so forth that are the issues that everybody really cares about and therefore, this has an effect on it. I mean, this is very visible...

JAY HOOLEY: Right, but I don't think there's any detraction from...

LARRY O'SULLIVAN: It's very similar, as far as I'm concerned, to the Stage Coach Inn sign. It exists, it looks good for the area. I don't think anybody's gonna say that, you know, it's a big, circled red "K" sitting there, you know, that's seven hundred (700) square feet. What we are talking about is what's allowable in the way of a size. The only significance is that it is two (2) signs as opposed to one (1).

MATT NEUMAN: Right.

LARRY O'SULLIVAN: So...

MATT NEUMAN: Alright, well, I think we're gonna pull back into deliberations.

NEIL DUNN: I'm good.

DELIBERATIONS:

MATT NEUMAN: I think maybe we should walk through the five (5) points.

NEIL DUNN: Sounds good.

MATT NEUMAN: I mean, I truly don't have an issue.

LARRY O'SULLIVAN: With one (1) or two (2) or three (3) or four (4), right?

MATT NEUMAN: Really. Absolutely.

LARRY O'SULLIVAN: Just to move it along, I had overall size is the issue and the attractiveness of the building in comparison. That's what, again, what would not be contrary to the public interest. That's what makes that not contrary. The spirit of the ordinance, in the same vein.

MATT NEUMAN: Mm-hmm.

LARRY O'SULLIVAN: This doesn't look like two (2) signs.

MATT NEUMAN: Right.

LARRY O'SULLIVAN: It doesn't exactly define as "a" sign, but it doesn't look like two (2) signs. But the substantial justice, I guess because they're only asking for forty nine and a half (49.5) square feet where fifty (50) is allowed, that, to me, is what we would allow everybody else, which means that's justifiable. For the following reasons, the values of surrounding properties, I don't believe, would be diminished.

NEIL DUNN: Not at all.

LARRY O'SULLIVAN: That isn't even something I would consider, that that would be damaging because there's two (2) signs there as opposed to one (1).

JOE GREEN: I agree.

LARRY O'SULLIVAN: And then the special conditions of the property. I know there's special conditions of the property because I drive by there, you know, three (3) times a day, four (4) times a day. And frankly, the hill is a big reason this property has all these different variances. Because of the visibility and the problems that the landowner hasn't created that growth and expansion of the town has created. So I think we've got that hardship criteria covered, so, other than that, my piece is done.

MATT NEUMAN: Covered well, Larry. Any other thoughts?

JAY HOOLEY: Mr. Chairman? To dovetail on that, you're saying they would be allowed, as a corner lot, two (2) signs. The "Ford" on the front, the "Londonderry" on the side. The only trouble is, the road goes like this, the property is...you're not gonna see the other sign from the main road there.

LARRY O'SULLIVAN: Just what the point of the signs is to be...

JAY HOOLEY: Is to be seen, correct. So, I...I guess, for me, that would get me there.

MATT NEUMAN: Jim, you have a thought?

JIM SMITH: I just struggle with the idea that the Town has to change to [indistinct] with Ford Motor Company, that's my only real part with it. The other part, while Larry's observations on the hardship were, I think, very accurate, I would have rather had that come from the applicant rather than from you. You know, I mean, we shouldn't have to build their case.

LARRY O'SULLIVAN: I think the knowledge of the area is where we are allowed to build on the presentation, if it wasn't specifically covered. That's why I also...well, you know, I have to give you twenty six (26) years of history that...how long have you been here, a hundred? No, I'm just teasin' you.

NEIL DUNN: Oh.

MATT NEUMAN: Wow.

JIM SMITH: Wow.

LARRY O'SULLIVAN: Zing.

MATT NEUMAN: Alright, do we have any other thoughts here or are we ready for a motion?

NEIL DUNN: I'd like to make a motion that we grant case 4/21/2010-4 as granting the variance would not be contrary to the public interest, it is in the spirit of the ordinance, and granting the variance would do substantial justice. Additionally, that the surrounding property values would not be diminished and that special conditions of the property have been discussed, whereas down the hill and visibility's a little hard, are met by the application and the discussion of the Board here tonight.

JOE GREEN: I'll second that.

MATT NEUMAN: Alright, we have a motion to approve and a second. Signify if you approve by saying 'aye.'

JOE GREEN: Aye.

NEIL DUNN: Aye.

LARRY O'SULLIVAN: No discussion on that? Okay. Okay.

MATT NEUMAN: Did you want a discussion?

LARRY O'SULLIVAN: Nope.

MATT NEUMAN: All those...aye.

JIM SMITH: Aye.

LARRY O'SULLIVAN: Aye.

MATT NEUMAN: Those opposed, 'nay'? Abstention?

[no response for either]

RESULT: THE MOTION TO GRANT THE VARIANCE WAS APPROVED, 5-0-0.

RESPECTFULLY SUBMITTED,

LARRY O'SULLIVAN, CLERK
TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

APPROVED MAY 19, 2010 WITH A MOTION MADE BY LARRY O'SULLIVAN, SECONDED BY JOE GREEN AND APPROVED 5-0-2 (VICKI KEENAN AND MICHAEL GALLAGHER ABSTAINED AS THEY HAD NOT ATTENDED THE MEETING).