

1 ZONING BOARD OF ADJUSTMENT
2 268B MAMMOTH ROAD
3 LONDONDERRY, NH 03053
4

5 DATE: JULY 15, 2009
6

7 CASE NO.: 7/15/2009-4
8

9 APPLICANT: EDWARD M. DE LA FLOR
10 LOUIS DE LA FLOR
11 116-B ROCKINGHAM ROAD
12 LONDONDERRY, NH 03053
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14 LOCATION: 116 ROCKINGHAM ROAD, 16-85, C-II
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16 BOARD MEMBERS PRESENT: VICKI KEENAN, CHAIR
17 YVES STEGER, VOTING MEMBER
18 JIM SMITH, VOTING MEMBER
19 MICHAEL GALLAGHER, VOTING ALTERNATE
20 LARRY O'SULLIVAN, CLERK
21

22 ALSO PRESENT: RICHARD CANUEL, SENIOR BUILDING INSPECTOR/
23 ZONING OFFICER
24

25 REQUEST: USE VARIANCE TO ALLOW A MIXED RESIDENTIAL USE
26 IN A COMMERCIAL-II ZONE WHERE OTHERWISE NOT
27 PERMITTED BY THE TABLE OF USES, SECTION 2.2
28

29 PRESENTATION: Case No. 7/15/2009-4 was read into the record with no previous cases
30 listed.
31

32 VICKI KEENAN: So if you would start by stating your name and address and then tell us what
33 you'd like to do.
34

35 JEFF YOUNG: Sure. My name is Jeff Young and I currently live at 3 Briarwood Lane in
36 Amherst, New Hampshire. I'm the owner of the Angus Group Insurance Agency which is
37 located in the Verani Building right off of exit five (5) and I am looking to purchase this
38 property from Ed and Lou and what I'm looking to do is, it's a duplex that I'd like to live in one
39 side of the duplex and then convert the other side to my agency office. With the long-term, and
40 long-term, I will say three (3) to five (5) years, once the agency grows even more, that it would
41 be a hundred (100) percent commercial at that point.
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43 VICKI KEENAN: Do you want to take a few minutes and sort of walk us through your
44 application, starting with item number four (4)?

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JEFF YOUNG: Okay, you just want me to read it?

VICKI KEENAN: Yeah.

LARRY O'SULLIVAN: What is the building being used as now?

JEFF YOUNG: It's Ed and...residential, so Ed lives on one side and his brother, Lou, lives on the other side.

LARRY O'SULLIVAN: Great. Thank you.

JEFF YOUNG: And you want me just to read this, basically what I wrote in here?

VICKI KEENAN: Yeah, walk through each thing.

JEFF YOUNG: Okay. So, basically, I mean, the use of one side of the duplex is to be used as my primary residence while the other side will be used as my insurance agency office. And basically, the neighborhood is primarily residential but it is located in a commercial zone and is experiencing a gradual transition. Continued use of half of the property for residential use would be consistent with the gradual change in the neighborhood. And generally, commercial property is more valuable. The neighborhood is currently residential but zoned C-II. The proposed use respects the zoning ordinance but implements it gradually. An insurance agency office does not generate much traffic, especially on evenings and weekends and today, most of my office work is done electronically, so I have very few customers. I have, really, maybe one (1) a month that come to the office and I probably have two (2) insurance company representatives that come to the office. Most of my work, when I do need to meet with customers is I go to their house or to their business. For the residential neighbors, this is consistent with the residential uses. But again, it's a gradual transition. The structure was originally built in '86 as a residential duplex and has been used as a residential property since that time. The structure wasn't originally built as a commercial property, despite it being only twenty three (23) years old. Commercial uses of the property would be office-type only. The building was built with two (2) units. The property is a residential use in a commercial district. The area is still predominantly residential and both uses are permitted. Residential use is grandfathered while the commercial use is allowed. The zoning ordinance reflects a decision by the Town to be commercial in the future and the proposed use is consistent with that since it takes a hundred (100) percent nonconforming use and, in effect, to a fifty (50) percent nonconforming use. Granting the variance would do substantial justice because both uses are permitted. I do plan to eventually convert the whole property to a commercial use, so the property will eventually conform to the zoning ordinance entirely. By then, I expect the neighborhood will have moved in that direction as well. The proposed use of half residential, half commercial would be the first step to complying with the ordinance.

VICKI KEENAN: Thank you. Bear with us for just a second.

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JEFF YOUNG: Mm-hmm.

VICKI KEENAN: Are there any questions?

JIM SMITH: I've got a question regarding the history of the property. Covenants are not enforced by the Town but I believe...weren't there some covenants on this property regarding residential use?

JEFF YOUNG: I'm not aware of that.

JIM SMITH: 'Cause I know we had covenant problems with some other lots in that same general area. And I know they had to do something to get out of it, so, it would be something you'd need to look at, I think.

JEFF YOUNG: I guess I don't understand what you're asking, then.

JIM SMITH: In other words, I believe there were covenants on a lot of that land in there, restricting it to a residential use, even though the Town had changed it to commercial after those lots were laid out.

YVES STEGER: I remember those discussions because there was a case on another property in the same region and at that time, if I remember correctly, the Board discussed that and it was decided that covenants were private activities and could not be considered by the Board.

JIM SMITH: Yeah, I'm aware of that. I'm just throwing that at you so you understand that there could be covenant on that property if you do a deed search.

YVES STEGER: Now...the property is grandfathered for use as a residential, correct? At this time. If it is sold, the grandfathering disappears, correct?

RICHARD CANUEL: No.

YVES STEGER: It does not?

RICHARD CANUEL: No.

LARRY O'SULLIVAN: If the building is destroyed or what have you and that...

YVES STEGER: Oh, okay, but just a change of ownership does not...

JIM SMITH: No.

YVES STEGER: So, in this case, why does he have to come here?

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RICHARD CANUEL: Alright...

YVES STEGER: Because he doesn't have...he doesn't have to ask for any permission to put an office because that's the normal use...

VICKI KEENAN: Right.

RICHARD CANUEL: Here's the issue as I see it and why the application is here in the first place. You know, at one time, that area was all residentially zoned and it has subsequently been changed to a commercial zone and a number of residences still exist there. They exist there now as existing, nonconforming uses...

YVES STEGER: Mm-hmm.

RICHARD CANUEL: ...and they are protected under the grandfathered clause of property taking and so forth. And they can continue in that use indefinitely, as long as there is no changes. In this particular case, this duplex that exists on the property can remain there. Now we're looking to develop that property for a commercial use. You don't have it both ways. You either continue as the present permitted, nonconforming use or you change it to a permitted use. In this particular case, a professional office is allowed in the Commercial-II zoning district. Mixed residential uses is only allowed in our Commercial-IV zoning district in town, where we have a residence that can exist or co-exist in the same structure as a business. That's the only zoning district or that type of use or mixed residential uses allowed. We have had instances where we've had commercial development on a lot where a residence exists. The prime example is the Subway development out there by exit five (5). That was an existing residential lot. It was converted to a commercial zoning district. The use, as a commercial use, the Subway, was a permitted use. The residence is a permitted use. The residence exists there on that same lot as that business. There was no change to the residence. There was no restriction requiring that residence to be vacated, because that would be considered a taking. So because there was no change there, the residence is allowed to exist. In this particular instance, we're looking to convert a portion of that residence into what we call a mixed residential use, commercial and residential coexisting in the same building on the same lot. Like I say, the only place that's permitted in our ordinance is in the Commercial-IV zone.

YVES STEGER: You mentioned improvements. Does that mean that there's gonna be work done, transformation, building, parking spaces or things like that?

RICHARD CANUEL: Well, all of that changes. You know, parking is different for residential use than it is for a commercial use.

YVES STEGER: Mm-hmm.

176 RICHARD CANUEL: So that is a change. When we have a change of use in the commercial
177 zoning district, that requires site plan review.
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179 YVES STEGER: Correct.
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181 RICHARD CANUEL: So we're talking a commercial use here, we're no longer talking
182 residential use.
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184 YVES STEGER: Mm-hmm.
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186 RICHARD CANUEL: The residence can exist as it's grandfathered. A commercial use can be
187 developed as a permitted use but not both. See what I'm saying? Our ordinance does allow
188 that but it's only allowed in our Commercial-IV district, so...
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190 YVES STEGER: Not on C-II.
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192 RICHARD CANUEL: As we know, as our ordinance reads, as our Table of Uses, if it's not a
193 use that's listed as a permitted use, then it's not permitted.
194
195 LARRY O'SULLIVAN: As opposed to a home occupation.
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197 RICHARD CANUEL: Yeah, this is not a home occupation.
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199 YVES STEGER: Mm-hmm.
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201 RICHARD CANUEL: This is commercial development.
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203 JIM SMITH: I think we've got one other additional problem is the definition of mixed use.
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205 RICHARD CANUEL: Yeah, you look at a definition of mixed use and it talks about a residence
206 over...
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208 JIM SMITH: Not next to.
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210 RICHARD CANUEL: ...a commercial. Not next to. So that's another issue as well, so...You
211 look at these variances and the Board has said it time and time again is that you need to
212 consider the intent of the Town's Master Plan. The intent along Rockingham Road, even though
213 there is all residences that are still existing there, the intent is to eventually convert those to
214 commercial uses. As long as there's no changes to those residential uses, they are protected by
215 the grandfather clause as existing nonconforming uses. Once you change it, you can't have it
216 both ways. It's either you have a commercial use or you maintain a residential use.
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218 VICKI KEENAN: He mentioned that...and this is a question and feel free to comment, that
219 there's a point in time with which the whole thing will become commercial.

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JEFF YOUNG: Correct.

VICKI KEENAN: Could we grant something with a sunset provision?

RICHARD CANUEL: Absolutely. Yeah. I think the Board certainly would not be going beyond the intent of the ordinance and be contrary to the ordinance if you were to grant the variance with a restriction that the entire building will be developed for commercial use within, you know, twenty four (24) months or twelve (12) months or whatever the Board desires. Yeah, I think that's reasonable.

JIM SMITH: If this variance was granted, a site plan would be required?

RICHARD CANUEL: Oh, absolutely, yes, because it's commercial development now.

JIM SMITH: Yeah.

VICKI KEENAN: Mm-hmm.

YVES STEGER: Yeah. So, regarding that, what is your expectation in terms of converting to full...?

JEFF YOUNG: Well, I expect three (2) to five (5) years and this is probably how I arrived at that; it's based on the fact that I started my agency six (6) years ago, I've been in insurance for twenty two (22) years, I was a commercial underwriter for the first sixteen (16), I started my agency from scratch, meaning no clients six (6) years ago and I now have four hundred (400) clients and nearly a thousand (1,000) policies. It's done very well and even in the economy today, compared to most agencies out there, it's very successful. I expect, you know, in my plan, we're still growing, we're gonna continue to grow, I occupy a thousand (1,000) square feet right now in the Verani building and I'm gonna say in three (3) to five (5) years, these numbers are gonna double and I'm gonna need more space and more people and that's...I want to be in that area, I'm literally a quarter mile up the road, you know, where I'm proposing to go. It's important that I stay in the same area for my customers. I'm contractually obligated to my carriers to stay in the same town, so it isn't that easy for me to just go pick up and move to any place I want. I've got contractual obligations with them for exclusive reasons. And then, from a personal standpoint, my daughter's gonna be eighteen (18) years old, I expect at that point, I don't need to be bound to this area and ultimately, would like to move, buy a house up north. I don't want to live on Rockingham Road for the rest of my life.

YVES STEGER: Okay.

JEFF YOUNG: I mean, I would agree if you guys did something like that to give me a certain amount of time, "Hey, Jeff, you gotta be out of here," but I would ask for the five (5) years. I mean, I'm just saying, three (3) to five (5) years. It wouldn't be sooner than three (3), it probably

264 would be five (5). I'd be pretty comfortable in five (5) years I could double my agency. I would
265 need a couple more people and a couple thousand (2,000) square feet for my office at that point.
266
267 VICKI KEENAN: See, my thinking is on the sunset provision that it would become all
268 commercial at that point, is sort of where I was headed.
269
270 JEFF YOUNG: That's right. And that's what I would do. It would be a hundred (100) percent
271 commercial, no residential there whatsoever.
272
273 VICKI KEENAN: Okay.
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275 JEFF YOUNG: And the plans for the construction now, is, I mean, the first side you drive into is
276 gonna be the office side and there's gonna be, you know, some construction done to that, I
277 understand I gotta do the site plans and the renderings. And I can tell you this, I'm gonna do it
278 with first class taste, that's the way I've always done my business, just being in the Verani
279 building and starting an agency from scratch, that was a very expensive place to go. But it was
280 the plan. It was the plan to impress customers, impress the insurance companies to get those
281 contracts. And it's worked well.
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283 VICKI KEENAN: Richard, I'm assuming with the site plan, that there would be review of how
284 the business and the home would be separated and there would be construction required for
285 that as well, right? Or not really?
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287 RICHARD CANUEL: Well, construction for the building, that's not something that's necessary
288 to take into consideration as far as separation of the uses go.
289
290 VICKI KEENAN: Alright.
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292 RICHARD CANUEL: That's a building code issue.
293
294 VICKI KEENAN: Okay.
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296 RICHARD CANUEL: You know, things that the Planning Board would consider would be
297 increase in parking requirement...
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299 VICKI KEENAN: Gotcha.
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301 RICHARD CANUEL: ...'cause now you've got a commercial versus a residential use.
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303 VICKI KEENAN: Okay.
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305 RICHARD CANUEL: Landscaping...

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307 JEFF YOUNG: I mean, there's room to do that. I mean, there's three (3) acres there. There's
308 room to expand parking.

309

310 YVES STEGER: They could develop much more.

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312 VICKI KEENAN: Right.

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314 LARRY O'SULLIVAN: What is that pond behind you there, do you know? Is that a pond?

315

316 JEFF YOUNG: I don't know. I walked all the way through...I haven't gone to the very, very
317 end. I understand it goes all the way to railroad tracks. I didn't get...it gets pretty thick back
318 there with the trees. I did go, I'm gonna guess, maybe halfway back there. I never ran into a
319 pond. It was actually quite dry.

320

321 MICHAEL GALLAGHER: There's a little...

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323 VICKI KEENAN: It's wet?

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325 MICHAEL GALLAGHER: I used to ride my bike with my kids when I lived in that area and
326 there's...

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328 YVES STEGER: Well, there is water at the end.

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330 MICHAEL GALLAGHER: ...a small little pond [inaudible]...

331

332 YVES STEGER: Okay.

333

334 LARRY O'SULLIVAN: Yup, it looks like it's across Independence Drive...

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336 MICHAEL GALLAGHER: Actually, I was gonna say, yeah, that's not back into that
337 commercial area out there.

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339 VICKI KEENAN: Yeah. Are there any more questions from the Board? 'Cause we can open it
340 up to the public. Okay. Is there anyone here to...are you here to speak?

341

342 STEVE TREFETHEN: I would like to say something. My name is Steve Trefethen. I work with
343 Summerview Real Estate and I represent the sellers. Just a couple things about the property and
344 the area and some things haven't come up yet, so maybe this will be a little bit helpful. Next
345 door to Jeff, there is a mixed use, residential and commercial in two (2) separate buildings. It
346 was, you probably know more about it than I do, I don't know the area, that part of the area
347 well, but it's at 114 Rockingham Road and it was the...they built a building and they put a
348 commercial use, I think it was a florist at one time and then it was a residential. It has since, in
349 the last couple or three (3) years, I'm gonna assume the Town allowed this, has gone to a pool

350 builder and a residential use. That's at 114 Rockingham Road. Two (2) separate buildings and a
351 mixed use type building. So, that's just one spot. There's some other places on Rockingham
352 Road this has been going on and I know only know of a couple because I dealt with a couple. I
353 don't know the whole area that well. At 130 Rockingham Road, where you have Morgan
354 Windows, you also have an apartment in that building that's been there forever and I'm not too
355 sure, but that's always been there. And one that I did work on years ago, and I checked it out
356 because the gentleman asked me to sell it, was 15 Rockingham Road, was a car lot and also a
357 legal apartment at the car lot. Legal living quarters, mixed use. Because when I went to sell it, I
358 always send people to the Town, as I sent Jeff, I tell them to go right to the Town, let them find
359 out what you can do and can't do and make sure that's the right property for you and now I
360 think you have, like, Pittore Paving on there with another use. But the one at 114 is particularly
361 interesting because that's in a separate building, a commercial use with a house being used as
362 residential and that was previously just done. Just a couple more things I want to mention
363 about the property. Trying to find the right use here was really tough for me. The State has
364 taken the land all along that part of Rockingham Road and they're gonna remove all the trees,
365 about twenty (20) to twenty five (25) feet, some places forty (40), some places fifteen (15), so all
366 of those trees, those residential people have there, they're gonna all be gone, they're doing that
367 this year is my understanding from the owners and I've seen the appraisals from the State and
368 supposedly by next year it will be done. So now you're gonna put all these residential users in
369 there and they're gonna have no trees, no barrier. They're gonna be right on Rockingham Road.
370 I think this is a nice graduate turn from a place that's gonna have no trees and the road's gonna
371 be a little closer to them, so I thought that Jeff was a great use for this and I was hoping it would
372 work with the Town but we do allow, and I would imagine by meeting, I know that flower shop
373 went in there by meeting, I would say we do allow mixed use in a C-II zone and I believe these
374 boards have allowed that. You'd have to check into it, I'm not sure, but it seems to be going on.

375
376 VICKI KEENAN: Okay.

377
378 JAYE TROTTIER: Could I get your name again, please?

379
380 STEVE TREFETHEN: I'm Steve with Summerview Real Estate.

381
382 JAYE TROTTIER: And what's your last name?

383
384 STEVE TREFETHEN: Trefethen, T-R-E-F-E-T-H-E-N. I have one more thing to say about the
385 poor gentleman with the house [referring to Case No. 7/15/2009-2]. I'm not gonna be able to
386 sleep tonight and I just wanna bring this up. When I built my little addition, I live on the
387 Derry/Windham line, when I built my little...right in Windham, when I built my little house, I
388 wanted to put an addition because the kids got bigger and I had the same problem he did. I
389 actually had to put forty five's (45's) at the end of my addition to allow it but one of the things
390 the Town made me...the inspector made me do, I don't know if it was the Town's thing, but he
391 said, "You know, the best thing you can do is go out and have your surveyor stake your
392 foundation and then later you'll pay for your plan to finish your plan and show that the
393 building's really on it." And that was a big help for me because I knew nothing about building

394 and I'm glad I did that and it was right on the lines but that might be something for you guys
395 to... 'cause I know you're stuck with that. My gosh, one guy's building off the lot, we're
396 allowing it only 'cause he built, so how many more people are gonna put up houses on lots?
397 That's what worked for me and it's pretty cheap to do and that kind of was the nice thing the
398 inspector had said to me. He said it's not expensive, they just come out, they stake it. You're
399 gonna use them anyway to submit the plan showing your house is on your lot. And I had to cut
400 my building into forty five (45), so I didn't get anything out of it. But anyway, it worked, so. I
401 had to say that.

402
403 VICKI KEENAN: Thank you.

404
405 STEVE TREFETHEN: I'm not gonna be able to sleep for that poor guy tonight.

406
407 VICKI KEENAN: Okay, is there anyone else here that would like to speak? Okay. In that case,
408 before we...any questions before we bring it back to the Board for deliberation? Anything else
409 you want to add?

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411 JEFF YOUNG: I don't think so.

412
413 VICKI KEENAN: Alright, we're gonna close the public hearing and we'll bring it back to the
414 Board for deliberation.

415
416 DELIBERATIONS:

417
418 VICKI KEENAN: Would it make sense to walk through the five (5) points? I always like to do
419 that.

420
421 LARRY O'SULLIVAN: Always. Always.

422
423 VICKI KEENAN: I don't know if it drives you all crazy but...

424
425 YVES STEGER: I have to.

426
427 VICKI KEENAN: ...it really helps me a lot to hear all your thoughts on this. Okay, so (A),
428 would the proposed use diminish surrounding property values?

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430 LARRY O'SULLIVAN: No.

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432 VICKI KEENAN: I don't see that.

433
434 YVES STEGER: No.

435
436 VICKI KEENAN: Okay, so this is a pass. Be contrary to the public interest?
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438 LARRY O'SULLIVAN: No, as a matter of fact, it's...
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440 YVES STEGER: Actually, it would be in the advantage of the public interest because it's moving
441 in the right direction.
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443 VICKI KEENAN: I agree.
444
445 LARRY O'SULLIVAN: We've got a minimal use, also, of traffic impacts.
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447 YVES STEGER: Mm-hmm.
448
449 VICKI KEENAN: Mm-hmm.
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451 LARRY O'SULLIVAN: For me, that's why I mentioned earlier that had it been a home office,
452 we wouldn't even see him.
453
454 VICKI KEENAN: Mm-hmm.
455
456 LARRY O'SULLIVAN: 'Cause you don't have to have a specific location on file with the State
457 or the Town in order to run a business out of a home, so...
458
459 VICKI KEENAN: Yeah.
460
461 LARRY O'SULLIVAN: No issue there.
462
463 VICKI KEENAN: How about, use variance, one (1), restriction applied to the property
464 interferes with the landowner's reasonable use of the property?
465
466 LARRY O'SULLIVAN: Nope. Again, where we are, it is a commercial property.
467
468 VICKI KEENAN: Okay. No fair and substantial relationship exists? Pass for me.
469
470 YVES STEGER: Mm-hmm.
471
472 VICKI KEENAN: Okay. Would not injure the public or private rights of the...pass?
473
474 LARRY O'SULLIVAN: Yup.
475
476 VICKI KEENAN: Me too. Would do substantial justice?
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478 YVES STEGER: Definitely.
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480 VICKI KEENAN: Without a doubt. And contrary to the spirit of the ordinance.

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482 YVES STEGER: No, actually, it furthers the spirit of the ordinance.
483
484 VICKI KEENAN: Right. Right. So what are your feelings about adding restrictions about site
485 plan approval and a sunset provision? By which time the full property needs to be commercial.
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487 LARRY O'SULLIVAN: I think it would be very difficult to have the sunset provision, since we
488 don't typically follow things on a timeline.
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490 VICKI KEENAN: Mm-hmm.
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492 LARRY O'SULLIVAN: So, I...
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494 JIM SMITH: Especially with three (3) to five (5) years. That would be almost impossible.
495
496 VICKI KEENAN: I know. It's hard to keep track of. I agree.
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498 LARRY O'SULLIVAN: But especially since it's the intent of the applicant to do that, I don't see
499 there's an issue there or a requirement for it.
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501 VICKI KEENAN: Okay.
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503 YVES STEGER: Actually, if somebody wanted to purchase the property and put it back to two
504 (2) residential...
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506 LARRY O'SULLIVAN: They'd have a harder time.
507
508 YVES STEGER: Then they would have a much harder time.
509
510 VICKI KEENAN: Right.
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512 YVES STEGER: So I think this is...
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514 VICKI KEENAN: I think it's okay.
515
516 JIM SMITH: Because essentially, by doing this, he's abandoning the residential use on that side
517 of the property.
518
519 LARRY O'SULLIVAN: Right.
520
521 YVES STEGER: Correct.
522
523 VICKI KEENAN: Right.
524

525 YVES STEGER: And the way I look at it, which makes it easier, is the fact that one is going to a
526 permitted use, which is commercial, and the other one is continuing what it was and the only
527 thing we have is that definition of, you know...

528
529 JIM SMITH: Mixed use.

530
531 YVES STEGER: ...mixed use but, in this case, if there was a wall between the two, actually,
532 there is probably a wall between the two, it's not really mixed use like a house where you have
533 the top and the bottom or you have the garage and it's something else. You could look at it
534 as...a duplex is two (2) properties separated by a wall. But that's in my imagination and I have
535 a lot of imagination.

536
537 LARRY O'SULLIVAN: Well, Madam Chairperson, would you take a motion at this time?

538
539 VICKI KEENAN: I would. I would love a motion at this time. Okay.

540
541 LARRY O'SULLIVAN: I'd like to make a motion that we grant Case 7/15/2009-4 as presented,
542 having met all the conditions for a use variance.

543
544 JIM SMITH: I'll second.

545
546 VICKI KEENAN: Okay, there's a motion to grant the use variance and there is a second. Was
547 there a need to...my only comment, to add the site plan approval restriction?

548
549 YVES STEGER: Yeah, I thought we would...

550
551 VICKI KEENAN: Do you want to add that?

552
553 LARRY O'SULLIVAN: I don't think it's a requirement to add it here.

554
555 RICHARD CANUEL: It would be a requirement when they develop the site.

556
557 MICHAEL GALLAGHER: Right...

558
559 LARRY O'SULLIVAN: As soon as he goes to develop the site.

560
561 VICKI KEENAN: They typically do it?

562
563 RICHARD CANUEL: It would be an enforcement issue.

564
565 YVES STEGER: Yeah.

566
567 VICKI KEENAN: Okay. If it's absolute, then I don't see why we need to do that. Okay.

568
569 LARRY O'SULLIVAN: If you prefer that I do it, I mean, it's not major thing.
570
571 YVES STEGER: No...
572
573 VICKI KEENAN: It's just historically we did that.
574
575 LARRY O'SULLIVAN: Okay.
576
577 JIM SMITH: It's redundant.
578
579 LARRY O'SULLIVAN: We'll make the amendment. Do you second the amendment, too, Jim?
580
581 JIM SMITH: Yup.
582
583 VICKI KEENAN: Okay.
584
585 LARRY O'SULLIVAN: Done.
586
587 VICKI KEENAN: Alright, so with the restriction for site plan approval. Any further
588 discussion?
589
590 YVES STEGER: No.
591
592 VICKI KEENAN: No? Okay. All those in favor, signify by saying 'aye.'
593
594 LARRY O'SULLIVAN: Aye.
595
596 JIM SMITH: Aye.
597
598 YVES STEGER: Aye.
599
600 MICHAEL GALLAGHER: Aye.
601
602 VICKI KEENAN: Aye. Opposed? Abstentions?
603
604 JEFF YOUNG: Thank you.
605
606 STEVE TREFETHEN: Thank you.
607
608 RESULT: THE MOTION TO GRANT THE USE VARIANCE WITH RESTRICTIONS WAS
609 APPROVED, 5-0-0.
610
611 RESPECTFULLY SUBMITTED,

612

613

614

615 LARRY O'SULLIVAN, CLERK

616 TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

617

618 **APPROVED AUGUST 19, 2009** WITH A MOTION MADE BY LARRY O'SULLIVAN,

619 SECONDED BY JIM SMITH AND APPROVED 4-0-2 WITH NEIL DUNN AND MATTHEW

620 NEUMAN ABSTAINING AS THEY HAD NOT ATTENDED THE JULY 15 2009 MEETING.