

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

DATE: AUGUST 20, 2008

CASE NO.: 8/20/2008-2

APPLICANT: 27 ASH STREET, LCC
27 ASH STREET
LONDONDERRY, NH 03053

LOCATION: 527B MAMMOTH ROAD, 15-185, C-I

BOARD MEMBERS PRESENT: MARK OFFICER, CHAIR
YVES STEGER, VOTING MEMBER
NEIL DUNN, VOTING MEMBER
BARBARA DILORENZO, VOTING MEMBER
VICKI KEENAN, NON-VOTING ALTERNATE
JIM SMITH, NON-VOTING ALTERNATE
MICHAEL GALLAGHER, NON-VOTING ALTERNATE
LARRY O'SULLIVAN, CLERK

REQUEST: USE VARIANCE TO ALLOW RETAIL VEHICLE SALES IN THE
COMMERCIAL I (C-I) ZONE WHERE IT IS NOT A PERMITTED USE
ACCORDING TO THE ZONING ORDINANCE USE TABLE.

PRESENTATION: CASE NO. 8/20/2008-2 WAS READ INTO THE RECORD WITH FOUR
PREVIOUS CASES LISTED.

MARK OFFICER: Who will be presenting for the applicant?

MARK PHILLIPS: [inaudible].

MARK OFFICER: Okay. Come up and have a seat.

JIM SMITH: This kind of goes back. You never read the letters in.

LARRY O'SULLIVAN: For the last case? The last case is closed.

JIM SMITH: I know. But you didn't read any letters in.

MARK OFFICER: You read one.

JAYE TROTTIER: He read the first one.

LARRY O'SULLIVAN: I read the first letter.

VICKI KEENAN: Not the second letter.

LARRY O'SULLIVAN: I think there was only one (1) letter.

JIM SMITH: Yeah, well, he gave you some extra ones, too.

VICKI KEENAN: He gave us a second one.

LARRY O'SULLIVAN: Oh, he gave us one, right? You're right, I didn't read it. It's in the record.

MARK OFFICER: It was in favor.

JAYE TROTTIER: Yeah.

MARK OFFICER: And we voted in favor, so...

LARRY O'SULLIVAN: Are these all the copies?

MARK OFFICER: Okay. If you'd just state your name and address for the record, please.

MARK PHILLIPS: My name is Mark Phillips, this is Jacqueline Phillips, and do want my residence or the place of business?

MARK OFFICER: I guess you may...it doesn't matter.

MARK PHILLIPS: I can do both. Three seventeen (317) Winding Pond Road, Londonderry, New Hampshire is my residence, sir. And the location of the business is 527 Mammoth Road, Londonderry, New Hampshire.

MARK OFFICER: Okay, thank you.

MARK PHILLIPS: Yes, sir.

MARK OFFICER: Why don't you just start off by, before you get into the five (5) points of law, just kind of giving us the lay of the land. This is sort of a strange lot.

MARK PHILLIPS: It is. The request for the retail license is really more for the dealer plates than it actually is for retail. I already have the ability through the RSA's, as long as fifty one (51) percent or greater of my sales are wholesale, to do retail. So, it's already permitted to do resale. It's really the plates that I'm seeking, which then doesn't give me the restrictions to do business. Wholesale plates are very, very restrictive. It's very difficult to expand. For instance, I have a buyer in Maine for this particular location. Wholesale plates only permits you to go from auction, from place of business, to auction and that nothing more, nothing less, you're not able to deviate. I believe in following the

RSA's as close as humanly possible and this is what the retail plates would enable us to do. So it's really for that function is why we seek it. The sales, we already have available to us if we so desire.

JACQUELINE PHILLIPS: And nothing would really change, basically, in how we conduct business.

MARK PHILLIPS: It's transparent.

MARK OFFICER: Okay. So, what's the nature of this business today, then?

MARK PHILLIPS: It's, right now, ninety five (95) percent wholesale. I purchase vehicles and I sell them at auction, sir.

JACQUELINE PHILLIPS: Or to other dealers.

MARK PHILLIPS: Or to other dealers. We do some repairs on the vehicles that we purchase. And that's pretty much it.

MARK OFFICER: Okay, so ninety five (95) percent, you sell wholesale and then five (5) percent to...

MARK PHILLIPS: People who just know me and they ask for vehicles and so forth. I don't actually go out and seek retail business.

MARK OFFICER: Okay.

MARK PHILLIPS: I don't have time to do both, sir.

MARK OFFICER: Alright. So it's for the five (5) percent you need the...

MARK PHILLIPS: No, sir.

MARK OFFICER: Oh, okay.

MARK PHILLIPS: As long...right now I'm doing over two hundred (200) vehicles, probably gonna hit about three hundred (300) vehicles this year wholesale.

MARK OFFICER: Mm-hmm.

MARK PHILLIPS: Which, as long as fifty one (51) percent of all my sales are wholesale, that means I can do two hundred and ninety nine (299) cars retail and still be within the spirit of the wholesale plates.

MARK OFFICER: Mmm.

MARK PHILLIPS: There's lots that are about that are forty (40) car lots that are in prime locations that would love to have that ability to do.

MARK OFFICER: Yeah.

MARK PHILLIPS: Those kind of sales. I have no desire to do those kind of sales.

MARK OFFICER: Right, yeah, you don't really have a visible place.

MARK PHILLIPS: What it really does is it enables me to have those plates, for instance, I have a gentleman in Colorado doing business, okay? It's almost impossible for him to buy a car in Colorado and bring it to Londonderry tomorrow in the spirit of the law, the wholesales plates. A dealer plate does not have those restrictions on it.

MARK OFFICER: I see.

MARK PHILLIPS: Okay? Another gentleman will be setting up in Florida. Now, these vehicles go directly to auction in those particular states.

MARK OFFICER: Oh, I see.

MARK PHILLIPS: Okay? Yeah, we're not transporting all these cars to New Hampshire. There may be a few down the road but not immediately. Now, as far as on a retailing with the limited that we do do, it does enable us to give twenty (20) day plates to customers which does give them a tremendous amount of convenience. Instead of us having to run to the State, to Manchester for instance, to get a twenty (20) day plate in order for them to take possession of the vehicle.

MARK OFFICER: Okay.

MARK PHILLIPS: So, on that level, there is a convenience factor for the customer. But once again, it's few and far between.

MARK OFFICER: Mm-hmm.

MARK PHILLIPS: And it's really...that part is really not that great of an inconvenience to us.

MARK OFFICER: Okay. So the true nature of your business is not changing.

MARK PHILLIPS: No, sir.

MARK OFFICER: This is...okay. Alright, this is just to allow you a little bit more flexibility, based on the way the State law are between dealer plates and...

MARK PHILLIPS: Yes, sir.

MARK OFFICER: Right, okay.

YVES STEGER: But I have a question. Wholesale of vehicles are not a permitted use for a C-I.

NEIL DUNN: But he had a variance for it on 9/16/2003.

VICKI KEENAN: Yeah.

MARK OFFICER: Yeah.

YVES STEGER: That's different, okay.

JACQUELINE PHILLIPS: Before we came to the property.

YVES STEGER: So, essentially, you want to extend the original variance to include retail as opposed to just wholesale?

MARK PHILLIPS: I already have retail. I'm looking for the plates, sir. I can already retail from that location on a wholesale license.

BARBARA DILORENZO: I don't understand...

MARK PHILLIPS: As long as fifty one (51) percent of my sales are wholesale, forty nine (49) percent can be retail. So, in theory, if I...

JIM SMITH: Okay, could I ask a question?

MARK PHILLIPS: Yes, sir.

JIM SMITH: Okay, I think what you're saying is the State law says you can do that.

MARK PHILLIPS: Yes, sir.

JIM SMITH: The variance that was granted by the Town only allows you to do wholesale. There was nothing in the variance for retail sales. Is that...?

NEIL DUNN: I don't know what they're...

[overlapping comments]

JIM SMITH: That's the way I would checked it, the way the variance...

JACQUELINE PHILLIPS: So does that...does...sorry...No, no, I was just gonna ask, does the Town have a different law for wholesale than the State? It does?

YVES STEGER: So here we're talking about zoning laws, we're not talking about professional laws that are handled by the State of New Hampshire.

NEIL DUNN: Okay.

YVES STEGER: So, this is a zoning law that prevents, essentially, retail...vehicle retail in a C-I. Actually, I'm just looking at...C-I does not allow wholesale...

MARK PHILLIPS: Understood.

YVES STEGER: ...either.

MARK PHILLIPS: Okay.

YVES STEGER: And so you're saying there is a variance? They got a variance?

VICKI KEENAN: Can you reread the variance?

NEIL DUNN: Yeah.

YVES STEGER: Can you read that variance in detail to know if there were any restrictions or what was the wording of that variance? That's pretty important to this case because essentially, they are trying to extend the variance and I don't know if the variance that we gave for the use was for retail or only wholesale or...

LARRY O'SULLIVAN: This is 9/16/2003. "Tisdell Transmissions (Ben's Auto Center," at this address, "Variance to allow," variances go with the land...

YVES STEGER: Yeah, yeah.

LARRY O'SULLIVAN: Okay? "Variance to allow the wholesale of used cars which is not a permitted use in a C-I zone." They've got it.

MARK OFFICER: So, he's allowed wholesale.

VICKI KEENAN: Wholesale.

LARRY O'SULLIVAN: Yeah.

MARK OFFICER: He's...

VICKI KEENAN: Not retail.

JIM SMITH: As far as the Town goes.

LARRY O'SULLIVAN: As far as the Town...yeah, that's all we care about. This is land use.

MARK OFFICER: He's not allowed retail as far as the Town goes.

NEIL DUNN: Yeah.

JIM SMITH: Right.

MARK OFFICER: He's allowed retail as far as the State goes.

VICKI KEENAN: Am I reading this correctly?

LARRY O'SULLIVAN: The restrictions on retail are significantly different than the restrictions on wholesale.

VICKI KEENAN: ...permitted.

MARK OFFICER: I think autos might have a separate section.

LARRY O'SULLIVAN: Like the lighting. Right now you don't need lighting in that...

VICKI KEENAN: ...recreation in a commercial vehicle.

MARK PHILLIPS: But I have no cars for retail.

LARRY O'SULLIVAN: I don't know...

MARK PHILLIPS: I just want the plates.

VICKI KEENAN: See, it doesn't say.

[overlapping conversation]

LARRY O'SULLIVAN: They're trying to have plates that are for use...

BARBARA DILORENZO: ...plates...

LARRY O'SULLIVAN: ...for whatever his purposes are.

MARK PHILLIPS: You know, without the limitations of the wholesale plate. That's what I am here for. That's correct.

MARK OFFICER: Okay. Alright, we got a few conversations going here, so, Richard, do you have anything to add?

RICHARD CANUEL: Yes, I sure do.

MARK OFFICER: Okay.

RICHARD CANUEL: First, I hope the applicant is sort of clear on the issue between retail and wholesale. As far as the State licensing regulations go...

MARK PHILLIPS: Mm-hmm.

RICHARD CANUEL: ...you can do a certain amount of retail sales based on your current licensing. There is a separate license, a requirement from the State, to allow you to do full retail vehicle sales and that's the reason for you requesting the variance because letters from the Department of Motor Vehicles come to our office for review, stating whether they meet requirements of the zoning ordinance or not and I had refused that letter because retail sales is not a permitted use. With the intent of our ordinance, when you talk about retail sale, it's actual sale of vehicles on site, which is an impact to the neighborhood and an impact to the site. There's been issues with this property in the past because of the size of the lot, it's very small, it's less than one (1) acre in size. There was an on-site visit back in 2003 by our Town Planner and our Town Engineer, based on uses of that site. There was off-site parking and storage of vehicles and equipment and things of that nature. And the property owner at that time was pretty much told if they maintained the use of the property within the existing limits of the paved area of that lot, there would be no requirement for a site plan. If we go to retail sales, that is a change of use that would require site plan approval from the Planning Board. I would suggest if the Board does desire to grant a variance to allow retail plates to be allowed at this address, is possibly put a restriction on that to not allow the actual sale of vehicles on site, simply because of the limitation of the property there.

LARRY O'SULLIVAN: And that would be good wording, too, then, as you just said.

NEIL DUNN: That would be...

VICKI KEENAN: Can I...?

LARRY O'SULLIVAN: For our purposes versus the State purposes, that should...that should allow us what we need for our land use requirements, and allow them the opportunity to do what they need to with licensing with the State.

VICKI KEENAN: Can I ask a question? Just a point of clarification, on the Use Table, page three (3), it talks about sort of motor vehicle maintenance, motor vehicle station, so on and so forth, and then it says retail sales establishment permitted. Am I missing it? Something? Do you see that?

MARK OFFICER: Oh, right.

VICKI KEENAN: Am I looking at...?

MARK OFFICER: And it's permitted in...

NEIL DUNN: C-I, C-II...

VICKI KEENAN: C-I.

MARK OFFICER: C-I, C-II and C-IV.

NEIL DUNN: It's Table 2.2, Richard, if you can maybe...

LARRY O'SULLIVAN: Two dot two (2.2)?

VICKI KEENAN: Last page.

RICHARD CANUEL: Yeah, vehicle sales establishment. Is that what you're looking at?

VICKI KEENAN: Oh, I see. I'm sorry, I was looking at retail sales establishment, which is right under, like, motor vehicles, so it's confusing. I see.

RICHARD CANUEL: Yeah, the vehicle sales establishment is only allowed in the Commercial-II zone, so...

MARK OFFICER: C-II?

VICKI KEENAN: Okay. That...

RICHARD CANUEL: This is Commercial-I.

MARK OFFICER: Yeah.

VICKI KEENAN: Got it. Okay. Thank you.

MARK OFFICER: Okay. Alright, did you have something to...?

MARK PHILLIPS: There was just the...the only thing about with the State of New Hampshire on the few sales that do exist, paperwork has to be done on the premises. So, technically, the sale, where the paperwork gets done, the sale would occur and that would be a violation.

LARRY O'SULLIVAN: Do you have to have the car on the premises?

MARK PHILLIPS: I'm sorry?

LARRY O'SULLIVAN: Do you have to have the vehicle on the premises?

MARK PHILLIPS: No, the vehicle, I don't, no, actually. But it's a...but the actual, technical term of sale is the paperwork, not the delivery of the vehicle. I'm not trying to split hairs, I just don't want to be in violation from the day I start, that's all. It's a real, fine technicality.

LARRY O'SULLIVAN: See, we don't want you selling retail in that area...

MARK PHILLIPS: Oh, I'm not...I'm not looking to...

LARRY O'SULLIVAN: ...right, that's in the zone. But that's the whole point, is that if you get a variance, the next Board in, you know, if everybody here resigned and went, you know, to a different Board, the next Board would have no choice about what we allowed and neither would your

neighbors, neither would anybody in the Town. So, it goes with the land, that's why you inherited the variances that you got when you both...do you own this property?

MARK PHILLIPS: No, I do not, sir. Tisdell...

LARRY O'SULLIVAN: Okay, you own the business.

JACQUELINE PHILLIPS: Yes.

MARK PHILLIPS: Yes, sir.

LARRY O'SULLIVAN: The business, right. The property has that variance, so whoever is the next owner gets it as well.

MARK PHILLIPS: Okay.

LARRY O'SULLIVAN: So, that's why the things that...when we allow a variance, it goes forever.

YVES STEGER: So, I'm not clear about that table. I see things in the table about motor vehicle rental, motor vehicle station, limited service...

MARK OFFICER: Which, neither are allowed in C-I.

YVES STEGER: Correct.

MARK OFFICER: Mm-hmm.

YVES STEGER: But I don't see anything that says where retail sale of vehicles are allowed.

RICHARD CANUEL: Towards the bottom of that chart.

MARK OFFICER: "Vehicle sales establishment"?

RICHARD CANUEL: Yeah.

YVES STEGER: Oh, okay. That's a C-II. Okay, alright. Got it.

MARK OFFICER: Mm-hmm.

YVES STEGER: Thank you.

MARK OFFICER: Okay. Alright. So, let's try to re-summarize here and make sure we're all on the same page.

VICKI KEENAN: Mm-hmm.

MARK OFFICER: Mr. and Mrs. Phillips today have...

JACQUELINE PHILLIPS: We're father-daughter, so it just sounds a little weird...

MARK OFFICER: Oh, I'm sorry.

JACQUELINE PHILLIPS: No, that's okay.

[laughter]

MARK OFFICER: Sorry, sorry. The Phillips today...I've been concentrating on retail/wholesale...

JACQUELINE PHILLIPS: Yeah, no, no problem.

MARK OFFICER: They have a wholesale license today and they have a variance for it granted in 2003. They're asking for a retail dealer license in a C-I zone which is not allowed and we're all squared away on that, right?

MARK PHILLIPS: Mm-hmm.

MARK OFFICER: Therein lies the rub. We don't...the Town, per Richard's request, would prefer not to allow retail sales on this site because then that requires a site plan, all types of things that we don't want to get into, given the nature of this land...lot. However, to have a...to make...to construct a retail deal...

MARK PHILLIPS: Mm-hmm.

MARK OFFICER: ...per State law, the paperwork has to be signed on the property.

MARK PHILLIPS: Right.

MARK OFFICER: Okay. Alright, does everybody got that? We might be able to get around this with restrictions...

VICKI KEENAN: Mm-hmm.

YVES STEGER: So, essentially, he would like to get an authorization to do retail without actually doing retail on site.

LARRY O'SULLIVAN: Mr. Phillips may have a suggestion.

MARK PHILLIPS: Never will a car be on the lot with a sale sign on it or anything like that, no displaying, nothing that would encourage anybody to come to that lot for retail on that...I mean, I could do all the restrictions in the world. I have no problems with that whatsoever, okay? I don't have the room for retail.

JIM SMITH: How about call it an office for the retail sale?

MARK OFFICER: I'm sorry?

LARRY O'SULLIVAN: An office for the retail sale?

BARBARA DILORENZO: And that would be...

VICKI KEENAN: Like a restriction that no vehicle...

MARK OFFICER: An office only?

BARBARA DILORENZO: ...that no vehicle is to be physically on...

JIM SMITH: Right.

MARK OFFICER: That sounds...yeah.

LARRY O'SULLIVAN: Bingo.

YVES STEGER: Mm-hmm.

MARK OFFICER: Yeah.

YVES STEGER: So, as a result of this, you will not make any change to the property? You will not add signage, lights...?

LARRY O'SULLIVAN: Thank you.

[overlapping comments]

YVES STEGER: ...parking spaces, additional parking spaces...

MARK PHILLIPS: I export mainly Hondas and Toyotas. I like to be invisible because people down in Lowell like my Toyotas and my Hondas, a little more than...and so being tucked where I am and very quiet and low key, I like it very much.

YVES STEGER: Okay.

MARK PHILLIPS: To be quite honest.

MARK OFFICER: Oh, I getcha.

[laughter]

MARK PHILLIPS: They've tried to get six (6) of them on me already.

LARRY O'SULLIVAN: Probably stolen.

YVES STEGER: What?

LARRY O'SULLIVAN: Probably stolen cars.

YVES STEGER: Yeah, yeah, I know.

MARK OFFICER: Yeah.

YVES STEGER: I know. But essentially it's gonna be a wording issue mostly.

MARK OFFICER: Yeah, okay. Alright, so I think we're all squared away.

BARBARA DILORENZO: Okay.

MARK OFFICER: So, I just want them to go through the...talk us through the five (5) points of law and then I'm gonna open it up to the public. Okay, go ahead.

JACQUELINE PHILLIPS: Do you want me to...okay. The majority of the surrounding...okay, like, facts supporting this request. The proposed use would not diminish surrounding property values because the majority of the surrounding property consists of industrial, commercial and swamp land. The property in question is secluded from view. The volume of cars at the property in question would not be increased.

MARK OFFICER: You're next to the wallboard company, right?

JACQUELINE PHILLIPS: Yeah.

MARK OFFICER: Yeah.

JACQUELINE PHILLIPS: Yeah. Granting the variance would not be contrary to the public interest because there would be no effect on the public interest. Almost nothing in the way we conduct business would be altered. As a wholesale dealer, we are allowed to sell some retail every year. The desire for the retail license is simply to make those few transactions easier for ourselves and our customers and to obtain retail plates that would make our business more efficient as a whole. The zoning restriction as applied to the property interferes with the landowners reasonable use of the property, considering the unique setting of the property in its environment such that the surrounding environment is a mesh of industrial and other commercial. It is reasonable that this location could be used for any desired commercial purpose, however, it is not our desire to change the nature of our business, only the efficiency of our business. No fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property because as mentioned previously, a wholesale license is permitted to conduct retail, so, fundamentally, no restriction exists. The restriction does, however, place hardship on our business that could easily be cured with retail dealer plates. Sorry, I'm trying to go as fast as I can. The variance would not injure

the public or private rights since the variance has no relation to public or private rights. If anything, our rights to reasonably use our property so that we may enhance our prosperity in our lives is being injured. Granting the variance would do substantial justice because we and our customers are being...are benefitting and no harm is being done to others. The spirit of the ordinance is to group commercial and industrial areas for the purpose of maintaining residential property values and natural aesthetics and also to ensure economic prosperity. Granting this variance would fulfill all areas of the spirit of the ordinance. Thanks.

MARK OFFICER: Okay. Alright.

MARK PHILLIPS: [inaudible]

MARK OFFICER: Alright, I'm gonna open it up to the public. Anybody opposed to this request? Okay, seeing none, anybody with questions or in favor? Sir? You're just...?

UNIDENTIFIED AUDIENCE MEMBER: No, I just wanted to make sure nothing was gonna change, that's why I was here, to make sure everything was gonna stay the same.

MARK OFFICER: Okay.

UNIDENTIFIED AUDIENCE MEMBER: That's what Richard was saying...

MARK OFFICER: Okay.

UNIDENTIFIED AUDIENCE MEMBER: I was concerned about the same thing.

MARK OFFICER: Okay. Alright, seeing no [inaudible], I'm gonna bring it back to the Board. Any further questions? No? Okay, we'll take it under deliberation right now and vote. Thank you.

MARK PHILLIPS: Thank you very much.

JACQUELINE PHILLIPS: Thank you.

DELIBERATIONS:

MARK OFFICER: Okay. It took a while to figure that one out but...

LARRY O'SULLIVAN: Just as long as they put a fence around it, I'm all set.

[laughter]

MARK OFFICER: Privacy or not?

NEIL DUNN: That's what he wants, private, yeah.

MARK OFFICER: Yeah, he wants good privacy. Restriction of a junk yard dog, maybe. Yeah. Okay, any comments? Questions?

BARBARA DILORENZO: I think we should restrict it to an office. Make it an office.

MARK OFFICER: Yeah, I was...

VICKI KEENAN: You have to...

MARK OFFICER: I can put this together. What I had as restrictions is the site shall only be used as a retail office to conduct a sales transaction of the vehicle. No vehicle shall be advertised for sale to attract the motoring public and no retail oriented signs shall be displayed.

LARRY O'SULLIVAN: I'll second that.

MARK OFFICER: Well, I didn't make the motion. I gotta pass the gavel.

BARBARA DILORENZO: And could we also add that no vehicles should be...somehow stated not to be physically on the property? I know you said no sign...for sale sign but I think we should also mention that no physical...

NEIL DUNN: How do we distinguish between the wholesale ones on the property and the retail ones?

MARK OFFICER: Yeah.

VICKI KEENAN: Not posted for sale.

BARBARA DILORENZO: Oh, I see what you mean.

VICKI KEENAN: You know, does that undo his...

BARBARA DILORENZO: But no, 'cause he said that goes...I'm sorry, I thought he said that goes directly to auction and goes off. So, he doesn't really have a wholesale vehicle on the property. Is that...that's my understanding. Did I misinterpret that?

NEIL DUNN: No, I believe there are...Let me see here...

BARBARA DILORENZO: I had noted here...that he said ninety five (95) percent...

JIM SMITH: With the wholesale plates, he can go from the auction to his place of business.

BARBARA DILORENZO: Okay.

NEIL DUNN: Yeah, and the photos show vehicles on the lot and I think that's allowed under the existing variance, so, I guess my point would be how would we...

MARK OFFICER: ...how do we enforce that?

NEIL DUNN: How would we enforce retail versus wholesale?

BARBARA DILORENZO: Okay. Alright.

NEIL DUNN: I mean, if we see too much traffic or...

JIM SMITH: Well...

NEIL DUNN: ...if somebody complains...

JIM SMITH: I think what would happen is, the way the var...you know, if you put the restriction on for an office only, when Richard gets the form from the State, he can put that on the form so that they're informed that it's strictly an office.

VICKI KEENAN: But that...

JIM SMITH: 'Cause they have field investigators that come out and look at these sights.

VICKI KEENAN: But that won't undo his rights to doing wholesale and doing repairs that he already does.

JIM SMITH: No.

VICKI KEENAN: Okay.

MARK OFFICER: No, basically...

VICKI KEENAN: I'm just curious about the wording. Okay.

MARK OFFICER:all I'm really saying is that this...the office will be for retail...well, it'll be retail office only. He can't have retail oriented signs, which he doesn't want. He can't have the vehicles advertised to attract the motoring public, which he doesn't want and they can't see from Old Mammoth Road anyways, and also I'll add the other one, 'no retail showroom,' which, I'm sure he doesn't want.

BARBARA DILORENZO: Sounds good to me.

VICKI KEENAN: That's good.

MARK OFFICER: Okay? Alright, so, I'll pass the gavel to the Vice Chair.

YVES STEGER: And I'll take it.

MARK OFFICER: And if you'll entertain a motion...

YVES STEGER: Yes. Anybody with a motion?

MARK OFFICER: I'll make a motion, Mr. Vice Chair. I will make a motion that we grant case 8/20/2008-2 with the following restrictions: the site shall only be used as a retail office...well, let me rephrase that...for the retail aspect of the business, the site shall only be used as a retail office to conduct sales transaction of the vehicle; there shall be no retail oriented signs displayed on the property; no vehicles shall be advertised to attract the motoring public and there shall be no retail showroom.

LARRY O'SULLIVAN: I'll second it.

YVES STEGER: Any more discussion?

BARBARA DILORENZO: No.

YVES STEGER: We have a motion and a second. Anybody in favor, say 'aye'.

BARBARA DILORENZO: Aye.

NEIL DUNN: Aye.

MARK OFFICER: Aye.

VICKI KEENAN: Aye.

YVES STEGER: Aye. Anybody against? Okay.

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

RESPECTFULLY SUBMITTED,

LARRY O'SULLIVAN, CLERK

TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

APPROVED SEPTEMBER 17, 2008 WITH A MOTION MADE BY LARRY O'SULLIVAN, SECONDED BY NEIL DUNN AND APPROVED 5-0-0.