

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
January 12, 2016

A public hearing of the Zoning Board of Adjustment was held on Tuesday, January 12, 2016 at 6:30 PM in Room 208, City Hall.

Gerry Reppucci, Chair
Jack Currier, Vice Chair
J.P. Boucher, Clerk
Kathy Vitale
Mariellen MacKay

Carter Falk, AICP, Deputy Planning Manager/Zoning

Mr. Reppucci explained the Board's procedures, including the points of law required for applicants to address relative to variances and special exceptions. Mr. Reppucci explained how testimony will be given by applicants, those speaking in favor or in opposition to each request, as stated in the Zoning Board of Adjustment (ZBA) By-laws. Mr. Reppucci also explained procedures involving the timing light.

- 1. Ballinger Properties, LLC & BT Realty Limited Partnership, Joanne Charron and Towers Motor Parts Corporation of Nashua (Owners) 242 Main Street, 1 & 5 East Hollis Street (Sheet 31 Lots 1, 2 & 6) requesting the following variances: 1) to allow an electronic changing message center sign on a portion of a new ground sign, 2) to exceed maximum ground sign height, 10 feet allowed, 24 feet proposed, 3) to exceed maximum ground sign area, 50 sq.ft allowed, 88 sq.ft proposed, 4) to exceed maximum wall sign area, 100 sq.ft allowed, 112 sq.ft proposed, 5) to allow an additional wall sign on the building, two permitted, an additional wall sign proposed for eastern façade for a total of three wall signs, and 6) to exceed maximum wall sign area, a total of 200 sq.ft allowed, 285 sq.ft proposed for all three wall signs. D-1/MU Zone, Ward 4. [TABLED FROM 12-8-15 ZBA MEETING]**

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Kathy Vitale
Mariellen MacKay

Attorney John Sokul, Hinckley Allen & Associates, Concord, NH.
Atty. Sokul said that they are here for five variances, three of them are for wall signs, and the others are for a pylon sign. He said that in this zoning district, the maximum sign area per City right-of-way is $1\frac{1}{4}$ times the building frontage, or 100 square feet, whichever is smallest. He said that they have two building frontages, one on Main Street, and one on East Hollis Street. He said he passed out full-sized plans for the Board as requested, as well as some photos of what the site looked like prior to building demolition.

Atty. Sokul said that the additional wall signage is appropriate, because in looking at the back of the building, it borders Medical Center Drive, but it's not legal frontage to the site because of an intervening City lot, but it looks like it's part of the site. He said he'd like CVS to have signage on all three sides of the building, the Main Street side, the East Hollis Street side, and the side facing Medical Center Drive. He said that there is access to the site from all three of these areas. He said if the Medical Center Drive was abutting the property, they would be entitled to 300 square feet of wall signage. He said that they're proposing 284.59 square feet of wall signage. He said that they're proposing 111.5 square feet of signage on Main Street. He said the signs are identical on the other two sides, they'll say CVS/Pharmacy 24 hrs, and each of these signs are 86.5 square feet in total, for a total of 284.59 square feet.

Atty. Sokul said that the other two variances are for the pylon sign out front. He said that the former sign said CVS Pharmacy Open 24 Hours, and there was a manual changeable sign. He said that the proposed sign only has the CVS Pharmacy open 24 hours text, so it's less square footage than what was there before. He noted that the electronic changing message sign was withdrawn earlier in the day. He said that they're requesting 88 square feet, where 50 square feet is allowed, which is less than what previously existed. He said that the sign is architecturally consistent with the building elevations, it has a little tower on the top of it that matches the building, and it's about 5 feet of the total height that is proposed. He said that all in all, the proposed sign is the same height as what existed before. He said that the proposed sign ties in well with the scale and height of the new building. He said that the new CVS building is about 4,000 square feet bigger than the old CVS that was here.

Ms. Vitale asked if the proposal to build a parking garage sometime in the future will change anything in the future.

Atty. Sokul said he's not familiar with all the details of the garage, and how large the garage would be. He said no matter what, it shouldn't change their sign, or the visibility of the sign, or access to the site.

Ms. Vitale asked about the pylon sign, and if the intent is to see it further down the street.

Atty. Sokul said that with the building pulled out towards the street, they feel that a smaller monument sign would be lost. He said that given the size and height of the new building, the proposed sign will work better.

Mr. Currier asked about the proposed pylon sign height, and asked what the height of the Walgreens sign and the Rite Aid sign.

Atty. Sokul said he is not sure. He compared the old existing sign in comparison to the Citizens Bank sign in the rear, and the sign here was at the top of the 24-25 foot area, but what is taking up about 5 feet of the sign is the non-sign architectural feature to make the pylon look in scale with the building. He said if the Board wants the top lopped off, it's something that can be considered, but it makes the sign look more attractive.

Mr. Currier said he wants to get a feel of how it would look in comparison to other signs on Main Street. He said that there's been a movement downtown with consistency and lighting, and said that the sign might tower above all other signs.

Atty. Sokul said that the lettering on the sign is about at 18-19 feet high, and it's not at the very top of the sign structure.

Mrs. MacKay asked about the size of the proposed sign in relation to the old sign.

Atty. Sokul said that the proposed sign is about a foot shorter than the old one, and the actual sign piece will be lower than what existed in the past and the peak of the top of this sign will occupy the top five feet.

Ms. Vitale asked if there is any drawing or photo of the sign superimposed on the site.

Atty. Sokul said that they don't have anything like that, there is no overlay. He said that the total signage basically on the new sign replicates what was on the top piece of the old sign.

Mr. Reppucci asked that when traffic is coming southbound on Main Street, as they approach CVS, do drivers have to take a left onto East Hollis Street to get into the site, or can they take a left by where the proposed pylon sign is.

Atty. Sokul said he didn't think you can take a left on Main Street at that entrance now.

Mr. Reppucci asked if drivers are going to be aware that they have to take a left turn onto East Hollis Street in order to get to the site.

Atty. Sokul said that he believes that there will be some directional signage on site, nothing out in the public right-of-way. He said that there will be wall signage on the building to help, and there will be signage helping drivers go through the drive-through lane.

Mike Patenaude, Poyant Signs, 3 Bud Way, Nashua, NH. Mr. Patenaude stated he understands the concerns with drivers going down Main Street and trying to take a left in. He said that part of the issue is that you'd have to put up a pretty large sign up for people to actually read it.

Ms. Vitale asked about the island by the drive-through.

Atty. Sokul said that the island is there to prevent people from taking a right and just sliding into the drive-through. He said it is a lot more structured with the small island there by the drive-through.

Atty. Sokul said that the new sign is proportionate to the existing signage, and by removing the request for the electronic changing message center and by not putting in a static reader board, the square footage is actually reduced. He said it was designed to have the height of the text to be what it was before, it is consistent, except for the architectural peak at

the top.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

Mr. Currier said that for the wall signs, the applicant is asking for a lot of relief numbers-wise, but it's a unique situation, and the wall sign request is reasonable, and is ok with it. He said he's a little uncomfortable with the pylon sign.

Mrs. MacKay said she concurs with Mr. Currier. She said she hopes there is no conflict with the power lines for the pylon sign. She said the pylon is so high, and the peak is tall.

Mr. Reppucci said that the building is 22 feet high, so the sign would be higher.

Atty. Sokul said that the height of the building by the pharmacy is 30 feet tall.

Mr. Reppucci said a piece of the building is 30 feet tall, but a bulk of the building is 22 feet tall.

Atty. Sokul said it looks like a bulk of it is 23'-4" tall.

Mr. Reppucci said that the proposed sign appears to be tall, and asked if there is a visual requirement to have it that high. He said that they can probably lower the whole pylon now since the electronic message center isn't on it now.

Ms. Vitale said that she likes the new design of the sign, the peak is higher, but wondered what it would look like down the road. She said that different areas of the City would need a taller sign, but said that she doesn't see it in this location. She said she can't recall another sign in the downtown area that is this height, it seems like it may be out of character, and it may not be consistent with Main Street. She said she didn't think if it were smaller that it would affect them business-wise, and would be preferable to bring it down. She said she

likes the design, and likes the fact that they removed the electronic changing portion of the sign, and the new building will be a big improvement overall. She said she's a little concerned about the sign height.

Mr. Reppucci said if the Board says for them to lower the sign by a few feet, he didn't know if we'd be able to visualize the difference, whether it will be better or worse.

Mr. Currier said it seems as if the Board is ok with the wall signs. He said for the pylon, he wants more data of the height of the Walgreens and the Rite Aid signs. He said his sense is that the sign is high, and will dominate the streetscape.

Mr. Reppucci said it would be nice to have the proposed sign superimposed on the site, so we can visualize exactly how it would look.

Mr. Currier said it would be good to have that perspective of how it would look. He said he'd be up for tabling the case just for the pylon sign.

Ms. Vitale said she'd like to see the sign superimposed on a drawing or picture, so we can really see what it would look like from the south or north.

Mr. Boucher agreed with the wall signage, it's a good plan. He said for the pylon sign, he said he doesn't necessarily have a problem with it, as it's about the same height as the old one, except for the peak. He wondered if it's lowered 2 or 3 feet, if it would make a difference. He said if it's the will of the Board and we take a look at a revised sign, he's in agreement.

Mrs. MacKay said she'd like to see a plan with the sign superimposed on it, to see that perspective. She said that the old sign seemed to be out of character with the downtown, as it was so large. She said she wants to ensure that the sign looks good against the building.

MOTION by Mr. Currier to approve the variance application as advertised on behalf of the owner for the proposed wall signs, variances #4, 5 and 6. He said that he is tabling variances #2 and 3 for the ground signs to the February 9, 2016 meeting.

Mr. Currier said that the variances are needed to enable the applicant's proposed use of the property, which is a restructured CVS drugstore, that has street visibility on two sides.

Mr. Currier said that it's within the spirit and intent of the ordinance, is not contrary to the property values, it is not contrary to the public interest, and substantial justice is served.

Mr. Currier said that for the Tabled ground sign requests, the Board has concerns that the sign is perhaps too large or too tall for the area per the Board's discussion, and the Board is requesting competitive data on other signs, or for a potentially reduced size sign, as the Board is uncomfortable stipulating specific sizes.

SECONDED by Mrs. MacKay.

Mr. Reppucci asked Atty. Sokul about future meeting dates.

Atty. Sokul said after thinking about it, they'd prefer to go to the February 9, 2016 meeting in order to put everything together.

MOTION CARRIED UNANIMOUSLY 5-0.

2. Edmund Kopka & Gail Reed (Owners) James Reed (Applicant) 39 Broad Street (Sheet 61 Lot 8) requesting the following variances: 1) to encroach 1 ft into the 6 ft side yard setback on one side; and 2) to encroach 2.5 feet into the 6 foot side yard setback on another side yard, to maintain an existing 12'x16' shed in rear corner of property. RA Zone, Ward 4.

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Kathy Vitale
Mariellen MacKay

James Reed, 39 Broad Street, Nashua, NH. Mr. Reed said that the shed is in the corner of the back of the lot, it's almost like a

pie-shaped corner. He said the shed was put in 3-4 years ago. He said that the shed is used for household goods. He said that his father is elderly and they are helping his parents out, so the shed is needed to store household items.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

MOTION by Mr. Currier to approve the variance application as advertised on behalf of the owner. Mr. Currier said that the variance is needed to enable the applicant's proposed use of the property, which is storage of household items, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance, it makes no sense to have the shed moved to meet the setbacks in this instance.

Mr. Currier said that it's within the spirit and intent of the ordinance, is not contrary to the property values, it is not contrary to the public interest, and substantial justice is served.

SECONDED by Ms. Vitale.

MOTION CARRIED UNANIMOUSLY 5-0.

3. Andrew E. Dubray (Owner) 38 Langholm Drive (Sheet C Lot 393) requesting variance to encroach 4 feet into the 6 foot required left side yard setback to maintain an existing 10'x16' shed. R9 Zone, Ward 9.

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Kathy Vitale
Mariellen MacKay

Andrew Dubray, 38 Langholm Drive, Nashua, NH. Mr. Dubray said

that they want to keep their shed in its present location. He said it is encroaching 4 feet into the 6 foot setback on the left side. He said that there are numerous sheds in the neighborhood that encroach similar distances, and that is why the shed was placed where it is, and it's used for a lawn tractor and snowblower, and other lawn tools.

Mr. Dubray stated that the house has a finished basement, and there is not a lot of storage in it, and there is no storage in the attic. He said that the shed was put up a little over two years ago.

Mr. Currier asked if had considered placing the shed in another location on the lot.

Mr. Dubray said that the shed is parallel to the house, and the back of the lot slopes down. He said that the shed is temporary, when the kids move out the shed can be moved out back. He said he just had some trees removed, and a retaining wall put in, and the lot was re-graded.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

MOTION by Ms. Vitale to approve the variance application as advertised on behalf of the owner. Ms. Vitale said that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, which is that the lot has a slope in the back of the property, and there have been no complaints about it, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.

Ms. Vitale said that it's within the spirit and intent of the ordinance, it is not contrary to the property values, it is not contrary to the public interest, and substantial justice is served.

SECONDED by Mrs. MacKay.

MOTION CARRIED UNANIMOUSLY 5-0.

- 4. Julian D. Thibeault & Sarah N. Foster (Owners) 55 Gillis Street (Sheet 25 Lot 50) requesting the following variances: 1) to encroach 4 feet into the 6 foot required rear yard setback; and 2) to encroach 4 feet into the 6 foot required right side yard setback, to maintain an existing 6'x16' shed. RB Zone, Ward 7.**

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Kathy Vitale
Mariellen MacKay

Julian Thibeault, 55 Gillis Street, Nashua, NH. Mr. Thibeault said that he has a 6'x16' shed that is at the corner of the lot, it was put there because essentially there was no other place on the lot for it to go, as the yard is small. He said the abutting lot is empty, so there is no immediate residence next door. He said if he were required to move the shed, it would almost be touching the house on one side. He said that on the other side of the lot, it is slightly sloped as well, so it can't go there.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

MOTION by Mr. Currier to approve the variance application as advertised on behalf of the owner, both requests taken collectively. Mr. Currier said that the variances are needed to enable the applicant's proposed use of the property, given the special conditions of the property, the lot next door is vacant and the shed is located in the back, and out of the way, and isn't a problem to anyone, and there are other sheds in similar locations in the neighborhood, and the benefit sought by the applicant cannot be achieved by some other method reasonably

feasible for the applicant to pursue, other than an area variance.

Mr. Currier said that it's within the spirit and intent of the ordinance, it is not contrary to the property values, it is not contrary to the public interest, and substantial justice is served.

SECONDED by Mr. Reppucci.

MOTION CARRIED UNANIMOUSLY 5-0.

5. John & Lisa Goguen (Owners) 8 Haines Street (Sheet 14 Lot 92) requesting the following variances: 1) to encroach 4 feet into the 6 foot required rear yard setback; and, 2) to encroach 3 feet into the 6 foot right side yard setback, to maintain an existing 10'x10' shed. RB Zone, Ward 7.

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Kathy Vitale
Mariellen MacKay

John Goguen, 8 Haines Street, Nashua, NH. Mr. Goguen said that the shed is 10'x10', it was put in the back corner of the lot, between a fence and a tree in the back yard, it's tucked in there so the yard is more usable. He said it encroaches 3 feet on one side, and 4 feet on another side. He said that the shed has been there about one year.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

MOTION by Mr. Currier to approve the variance application as advertised on behalf of the owner, both requests taken collectively. Mr. Currier said that the variances are needed to

enable the applicant's proposed use of the property, given the special conditions of the property, to allow for some quality back yard space.

Mr. Currier said that it's within the spirit and intent of the ordinance, it is not contrary to the property values, it is not contrary to the public interest, and substantial justice is served.

SECONDED by Ms. Vitale.

MOTION CARRIED UNANIMOUSLY 5-0.

6. Dillard & Laurie Collins (Owners) 7 Morse Avenue (Sheet 6 Lot 27) requesting variance to encroach 7½ feet into the 20 foot required front yard setback to construct an attached 24'x30' garage. R9 Zone, Ward 7.

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Kathy Vitale
Mariellen MacKay

Matt Erickson, Erickson Construction, Nashua, NH. Mr. Erickson said that the owners would like an attached two-car garage. He said that the house is a single-story single family home, with a hip roof, and the garage would look the same as the house. He said it will blend in nicely in the neighborhood. He submitted some pictures to the Board.

Mr. Erickson said that the home is set back 6½ feet from the front property line, as are all the homes on Morse Avenue. He said that the homes were built many years ago, before today's zoning requirement of twenty feet. He said that this house is set back the same as the others on the street, the main reason why the houses are so close to the street is that the lots drop off dramatically in the rear behind the homes.

Mr. Reppucci asked if the addition is all garage, or part living space.

Mr. Erickson said it's all garage, there will be a dining room

expansion in the back of the house, but it's not part of this application.

Mr. Reppucci asked if the third window in the front is part of the garage.

Mr. Erickson said it is, there is a delineation inside so that when you're in the garage, it's an extra six feet wide, as the standard sized garage is 24'x24'. He said that the owners just wanted a little more space inside the garage.

Mr. Reppucci said that the garage is actually set back further than the existing house.

Mr. Currier asked where cars are parked now.

Mr. Erickson said that you can see the pavement on the GIS map that was provided, and it's actually further away from where the garage is now.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

MOTION by Mr. Reppucci to approve the variance application as advertised on behalf of the owner. Mr. Reppucci said that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance, as the Board feels that if the garage was put further back, it would be a true hardship on the applicant with the topography of the land.

Mr. Reppucci said that it's within the spirit and intent of the ordinance, it is not contrary to the property values, it is not contrary to the public interest, and substantial justice is served. He said that the garage will actually be placed further back than the existing house.

SECONDED by Mr. Currier.

MOTION CARRIED UNANIMOUSLY 5-0.

7. William & Linda Porter (Owners) 30 Caron Avenue (Sheet 49 Lot 79) requesting variance to encroach 6 feet into the 10 foot required left side yard setback to construct an attached 26'x28'-3" garage. RA Zone, Ward 3.

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Kathy Vitale
Mariellen MacKay

William Porter, 30 Caron Avenue, Nashua, NH. Mr. Porter said that they're interested in constructing a functional sized garage, so that's why they went with a little extra width for the garage.

Mr. Currier asked if there are any neighbor concerns, especially on the side where the garage would be.

Mr. Porter said that all the neighbors are fine with the request.

Mr. Currier asked about the height of the garage.

Mr. Porter said it's not a big structure, and the way the gable is designed, it's about 15 feet away from the property line.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

MOTION by Ms. Vitale to approve the variance application as advertised on behalf of the owner. Ms. Vitale said that the variance is needed to enable the applicant's proposed use of the

property, given the special conditions of the property, the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.

Ms. Vitale said that it's within the spirit and intent of the ordinance, the garage is a reasonable two-car size and scale to the lot.

Ms. Vitale said it is not contrary to the property values, it is not contrary to the public interest, and substantial justice is served.

SECONDED by Mrs. MacKay.

MOTION CARRIED UNANIMOUSLY 5-0.

8. William & Alicia Thomas & Anne Marie Siteman (Owners) 15-17 Hunt Street (Sheet 102 Lot 38) requesting variance to encroach 3 feet into the 6 foot required rear yard setback to maintain two sheds connected on either side of a nonconforming garage. RB Zone, Ward 6.

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Kathy Vitale
Mariellen MacKay

Anne Siteman, 15-17 Hunt Street, and Alicia Thomas, 15-17 Hunt Street, Nashua, NH. Ms. Thomas said that her father actually built the two small additions onto the garage, they were built at least five years ago. She said that they're little storage areas off of the garage, one of them is just an overhang to store lawn chairs underneath it, it's like a summer use. She said she's getting a building permit for another shed on the lot, one that meets all the setbacks, and that's how she found out about needing a variance.

SPEAKING IN FAVOR:

Kevin Sullivan, 103 Pine Street, Nashua, NH. Mr. Sullivan stated that there is no neighborhood concerns with this.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

MOTION by Mr. Currier to approve the variance application as advertised on behalf of the owners. Mr. Currier said that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, which is storage of household items, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.

Mr. Currier said that it's within the spirit and intent of the ordinance, it is not contrary to the property values, it is not contrary to the public interest, and substantial justice is served.

SECONDED by Ms. Vitale.

MOTION CARRIED UNANIMOUSLY 5-0.

9. Law Realty Co, Inc. (Owner) Aftokinito Rally, Inc., d/b/a Dusty Old Cars (Applicant) 27 Airport Road (Sheet G Lot 4) requesting use variance to allow a classic and antique auto dealer in a portion of an existing building. AI Zone, Ward 2.

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Kathy Vitale
Mariellen MacKay

Attorney Morgan Hollis, Gottesman & Hollis, 39 East Pearl Street, Nashua, NH. Atty. Hollis said he is representing the applicant and the owner of the property for this request.

Atty. Hollis said that they want to request a portion of the building to have retail auto sales, which is not allowed in the

AI zone. He said that essentially, they're asking for a car dealership that is not a car dealership. He said that the property is a warehouse, Law warehouse, the building with the truck on the roof. He said that the building has approximately 127,000 square feet of warehouse space. He said that at the end of the building, closest to Airport Road, is an office, and always has been. He said that the office space will still be used for the office, for the sales office for the dealership.

Atty. Hollis said the car dealership will occupy almost the entire building, except over a small area, which there is an option. He said that this is a unique dealership, essentially they are an internet sales business of classic, older cars. He said that they discover and find these cars in barns, sheds, yards, etc. that may not necessarily be functioning, or have animals living in them. They bring the cars to the site, recondition them, and sell them on the internet. He said that 90% of the sales are done on the internet, and sold offsite. He said that the applicant is comfortable with a stipulation that there will be no outside display area of these vehicles. He said that essentially, they are warehoused, restored cars.

Atty. Hollis said that a portion of the building will be dedicated to warehousing, a portion dedicated to restoration and repair, and a small portion, up to 5,700 square feet, will be office sales. He said he submitted two 11"x17" plans which describes the space. He said the first plan was the plan approved in 1978 originally, and then in 1992, and it shows all the buildings, and where the auto storage, warehousing, repair and office will take place.

Atty. Hollis said that cars will be brought in, dropped off in the outside storage area, then brought in through the bays, restored, rehabbed, and then moved to the back area. He said that the front portion, which is the office, will be retail car sales.

Atty. Hollis said the second sheet shows the building how it exists today, and it will remain. He said it will be warehousing, storage of these autos, which is a permitted use within the zone, however, this is an unusual use where they are a car dealer because they need to have a dealers license in order to do what they are doing, but they are not a car dealer, there will be no outdoor display of autos, no people walking around like a normal car dealer with salespeople walking around,

with a showroom. He said the cars are restored, rehabilitated and take a lot of photos of each car goes on the internet, people see it, buy them, and they're trucked in and trucked out, there is very little on-site activity.

Atty. Hollis said that his client has multiple locations for warehousing these cars, and wants everything under one location.

Atty. Hollis said that it is an AI Zone, adjacent to businesses on Amherst Street. He said the use is in compliance with the area, and they need approval to have a car dealers usage with the State of New Hampshire. He said it's not really a car dealership, and they don't want it to be a car dealership. He said that right down the street is Peters Auto, and they're in the AI zone. He said that they're not changing the office area from what Law Warehouses had.

Atty. Hollis said that they won't alter the character of the property, there will not be any changes to the exterior of the building, you wouldn't notice this use if you drove by, there will not be a field of cars in the parking lot.

Atty. Hollis said that they will not threaten the public safety, health or welfare, sewer and water is available.

Atty. Hollis said that the proposed use will observe the spirit and intent of the ordinance, it's in keeping with similar uses, in that it's warehousing, even though it's not characterized as that.

Atty. Hollis said that the purpose of car dealerships is keeping them out of industrial zones, you don't want the cars out there with people wandering all around, with all the truck traffic coming and going, it won't be done that way here, and said that the stipulation of no outside display area and no changes to exterior parking, and limited office as shown on the plan will take care of that.

Atty. Hollis said that they will not alter the character of the adjacent properties or the immediate area, and it will not threaten public health, safety or welfare. He said that substantial justice will be done if granted, there will be no harm to the public, as it is really hard to find appropriate warehouse uses other than cutting them up, it's a perfect use for this warehouse, and a perfect use for the applicant. He

said it would be a serious harm to the owner if this is not granted, and there will be no real benefit to the public if this is not granted. He said that there will be no changes to the exterior or the appearance of the building, there will be minimal public access, there is parking, striping, handicap access out front, interior storage and repair, there are existing storage bays for the truck repair, access will be the same. He mentioned some of the abutting uses. He said if they didn't have to get this dealership license, they probably wouldn't have to come before the Board.

Atty. Hollis said for hardship, the property is industrially zoned, it's a large parcel with a large building, and are trying to find uses that will work. He said that this use works. He said it's not quite like a retail auto dealer, but it's similar. He said that the proposed use is reasonable, and submitted a letter from an independent appraiser, who's conclusion is that there will be no diminution in property values with the proposed use.

Mr. Reppucci asked about the 1992 drawing, there are a couple buildings to the left, and asked if they are involved in this proposed use at all.

Atty. Hollis said that they are not involved, they are garage maintenance building and a gas shed, they are not involved in the Dusty Old Cars business.

Mr. Reppucci asked if this will have to go to the Planning Board.

Atty. Hollis said that if this is granted, a meeting is set up with City staff on Thursday to determine whether it can be done administratively or if it has to go to the Planning Board.

Mrs. MacKay said that the way she sees it, it's going to be more of an auto body shop.

Atty. Hollis said that a small portion will be auto body, but a vast majority will be dedicated to auto storage, which is by itself a permitted use. He said that no matter what, they need a car dealership license, whether they sell just a few cars there or not.

Mrs. MacKay asked if any EPA standards have to be met with auto

body.

Stephan Condodemetraky, Owner, Dusty Old Cars. Mr. Condodemetraky said that that they don't do body work. He said that body work and painting is farmed out to other shops. He said that they do engine repair, carburetor tuning, basic mechanical work, cleaning, upholstery work, but 122,000 out of the 127,000 square feet will literally be used for car storage, and the remaining is office. He said that they take 300 pictures of every car, a video display, so it gives buyers a high level of confidence in the car if they live far away. He said that their inventory is divided into three categories, cars that need significant body work, the middle third need minor work, and the other third are inspectable and road worthy to drive. He said that all the cars are sold as-is. He said it's not an inventory of new shiny cars, most all of them are under \$10,000, with the average sale of about \$8,000. He said that they have a worldwide following, and about 100,000 people see the website every day.

Ms. Vitale asked if he is condensing his other properties into just this location.

Mr. Condodemetraky said he is, they've outgrown their last few locations, and now they spend a lot of time and effort going from one location to another, since the cars are stored at different warehouses.

Mr. Reppucci asked where they get their cars.

Mr. Condodemetraky said that they company has a classic car buyer, they get leads from all over the country, also, want ads, Craig's list, barns, and they're always searching for more assets. He said that they may get one or two 18-wheelers a week dropping off a car, they're mostly one-up trailers or flatbed trucks. He said that the density of their use would be one-tenth or one-twentieth of what used to be there with the 18-wheelers. He said that there will be less impact on the traffic.

Mr. Currier said he understands the business, and doesn't want it to turn into a typical car dealer with lots of cars outside for sale, he said he's in favor of the stipulation of no outside display area of cars.

Mr. Condodemetraký said that they don't want people coming to browse around, they have a niche market, actually a large majority of their customers buy the cars online, it's not set up to be a place where people come to look around at cars in a lot. He said that the outside storage area is where the cars get processed, they come in on a truck, some of them aren't ready to come inside yet, they may have critters living in them, or a lot of things that need fixing before they come inside the building.

Mr. Boucher said that he doesn't want the site to look like an auto junkyard.

Atty. Hollis said if the Board so chooses for a stipulation, they can say as presented on the submitted plans for the outdoor storage, or as the plan was presented so it's in the record.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

Mr. Reppucci said that there could be hundreds of cars with gasoline and oil all in one building should be reviewed.

Mr. Falk said that both the Building Department and the Fire Marshall would review this.

Mr. Reppucci said that other concerns would be the amount of traffic that goes there and the safety of it.

Mr. Currier agreed, and thought that there may be a fair amount of truck traffic, and you can make an argument that this use would have less traffic going to it. He said that his record has been that he doesn't want to give away industrial space for retail space, and felt that the stipulation was important that there is no outside display area for sales, and their commitment that 90% of the sales are over the internet.

Ms. Vitale said that they want to increase the number of cars, and it shouldn't generate a lot of traffic. She said that from a traffic standpoint, it's going to be less.

Mrs. MacKay said on the actual document that the Board received, it says no display of cars for sale, and is in favor of this, and they've stipulated that they wouldn't be an auto body shop, which is good due to all the EPA regs around paint booths and chemicals. She said it's a win-win for both the owner and the applicant.

MOTION by Mr. Currier to approve the variance application as advertised on behalf of the owner. Mr. Currier said that the variance is needed to enable the applicant's proposed use of the property, it is a unique business in that it's a car dealership that's not a car dealership, or at least not a traditional car dealership in that there is an enormous amount of indoor storage of older vehicles, and about 20 employees preparing those cars, so given that situation, it's more of a warehouse need versus a traditional car dealership, therefore, the Board finds that this variance is appropriate.

Mr. Currier said that it's within the spirit and intent of the ordinance. He said that there is testimony on file from a professional appraiser that this will not affect property values of surrounding parcels, the Board concurs with that.

Mr. Currier said it is not contrary to the property values, the Board has deliberated on the fact that even though this is a big warehouse, the traffic is probably less than what was there as a functioning trucking company, and the Board feels that substantial justice is served to allow this use to operate in a portion of an existing building.

Mr. Currier said that on the application there is a clear note for both areas for outdoor storage, it says no display of cars for sale, and again, the testimony by the applicant said that approximately 90% of the sales are done on the internet also.

SECONDED by Mr. Reppucci.

Mr. Reppucci said that businesses evolve. He said say five years from now or ten years from now this business has a desire to display vehicles for sale. He said if we don't speak to that, it would be a direct contradiction to the stipulation we are putting on now, so is it reasonable to make note that we don't want to preclude somebody from having the opportunity to come back and seek more permission. He said that the Board

would allow them to at least come back to ask permission to change that stipulation.

Mr. Currier said he didn't think the stipulation would preclude them from coming back and asking the Board in the future. He said it could come back, this stipulation wouldn't preclude them from coming back.

Ms. Vitale said that wouldn't them coming back to have outdoor displays and sales would make them more of a car dealership at that point.

Mr. Falk said that the applicant doesn't want cars outside, since they have older classics and antiques, they don't want them outside in the elements, or having people come by in the middle of the night taking parts off them, this is the type of business that they really have to have the cars indoors, it's just not the nature of their business.

Mr. Currier said that the Fisher v. Dover situation wouldn't apply if the property decides to come back sometime in the future.

MOTION CARRIED UNANIMOUSLY 5-0.

10. William R. & Christine Gagnon (Owners) 78 Gilson Road (Sheet D Lot 342) requesting the following variances: 1) to exceed maximum accessory use area, 40% allowed, 32% existing, 89.9% proposed, to construct a detached 34'x48' garage; and 2) to exceed maximum driveway width, 24 feet allowed, 46 feet requested. R30 Zone, Ward 5.

Voting on this case:

Gerry Reppucci
Jack Currier
J.P. Boucher
Kathy Vitale
Mariellen MacKay

Kevin Beaulieu, Nashua Remodeling, Merrimack, NH. Mr. Beaulieu said that they're asking for more accessory usage than what is allowed per the Code. He said that the proposed garage is to store his vehicles that are currently too tall and too big to fit in his current garage, it's underneath the house. He said

that the proposed garage is detached, and it will allow these vehicles to be out of the weather, and out of the driveway. He said that the garage has overhead doors that are needed to get the larger vehicles in there.

Mr. Reppucci said that the scale of the garage is incorrect on the drawing, it's really about one-quarter the size as the garage shown.

Mr. Falk showed all the members the proper scale of the garage, and showed it to the applicant as well.

Mr. Currier asked about the proposed 46-foot wide driveway, and asked to clarify the width.

Mr. Beaulieu said that the garage is offset from the driveway, but it will taper down by the street, so the width is really further back from the front property line.

Mr. Falk showed the Board members and applicant how the driveway would be laid out, and it keeps the same opening width, and fans out greater closer to the garage.

Mr. Currier said if the whole driveway was 46 feet wide, it would be out of character with the neighborhood, but after being shown how it will be laid out, it's much better.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

MOTION by Mr. Currier to approve the variance application as advertised on behalf of the owners, with both requests considered collectively. Mr. Currier said that the variance is needed to enable the applicant's proposed use of the property, which is a garage to house the applicants larger vehicles.

Mr. Currier said that it's within the spirit and intent of the ordinance, it'll make the property look better by getting the vehicles inside versus outside. He said it is not contrary to the property values, it is not contrary to the public interest,

and substantial justice is served. He said that the 46-foot driveway requested is per the plan that was shown to the Board members by Mr. Falk.

SECONDED by Ms. Vitale.

MOTION CARRIED UNANIMOUSLY 5-0.

MISCELLANEOUS:

REHEARING REQUESTS:

None.

REGIONAL IMPACT:

The Board did not see any cases that have regional impact.

MINUTES:

11-10-15:

MOTION by Mr. Reppucci to approve the minutes as presented, waive the reading, and place the minutes in the file.

SECONDED by Mr. Currier.

MOTION CARRIED UNANIMOUSLY 5-0.

11-24-15:

MOTION by Mr. Reppucci to approve the minutes as presented, waive the reading, and place the minutes in the file.

Mrs. MacKay said that the spelling of her last name is with a capital "K", and some places it was lowercase.

Mr. Falk said he'd make the appropriate changes.

SECONDED by Mrs. MacKay.

MOTION CARRIED UNANIMOUSLY 5-0.

12-8-15:

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MOTION by Mr. Reppucci to approve the minutes as presented, waive the reading, and place the minutes in the file.

SECONDED by Mrs. MacKay.

MOTION CARRIED UNANIMOUSLY 5-0.

ADJOURNMENT:

Mr. Reppucci called the meeting closed at 9:28 p.m.

Submitted by: Mr. Boucher, Clerk.

CF - Taped Hearing