

ZONING BOARD OF ADJUSTMENT PUBLIC HEARING AND MEETING
October 22, 2019

A public hearing of the Zoning Board of Adjustment was held on Tuesday, October 22, 2019 at 6:30 PM in the Auditorium, 229 Main Street, at City Hall.

Members in attendance were:

JP Boucher, Chair
Mariellen MacKay, Clerk
Rob Shaw
Jay Minkarah
Efstathia Booras
Nick Kanakis

Carter Falk, Deputy Planning Manager/Zoning

Mr. Boucher explained the Board's procedures, including the points of law required for applicants to address relative to variances and special exceptions. Mr. Boucher 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. Boucher also explained procedures involving the timing light, as well as the projector in front of the stage for plans to show the audience.

1. Amerco Real Estate Company (Owner) Gottesman & Hollis, P.A. (Applicant) 476 Amherst Street (Sheet H Lot 23) requesting special exception from Land Use Code Section 190-115 to work in a 40-foot "other" wetland and wetland buffer to allow for the installation of an underground sewer pipe. PI/MU Zone, Ward 2.

Voting on this case:

JP Boucher, Chair
Mariellen MacKay, Clerk
Rob Shaw
Jay Minkarah
Efstathia Booras

Attorney Morgan Hollis, Gottesman & Hollis, P.A., 39 East Pearl Street, Nashua, NH. Atty. Hollis said that the site was long used by FabBraze Corporation, and has changed hands to Amerco

Real Estate Company. He said that originally it was two lots, and a lot merger was filed so now it is a single lot. He said that the property will be used by a U-Haul facility, and there was a recent case before the Board for the use that was approved. He said that they will use the existing building and construct a new building in back of it for storage.

Atty. Hollis said that during the process of the engineering review, the utilities were looked at, and the sewers on Amherst Street, a problem arose in that the existing sewer pipes servicing the existing facility is not at a depth which is appropriate to be able to accommodate a flow from the newly constructed building to the interceptor on Amherst Street, so a new sewer pipe will have to be constructed from the new building to Amherst Street.

Atty. Hollis said that unfortunately, Amherst Street was recently repaved as of June, and there is a moratorium for five years where the street cannot be cut into. He said that a new pipe would have to go in, and the pavement would be dug up. He said that the other alternative would be a parallel City sewer main located to the rear of the property, down by the railroad tracks. He said that to do this, there is a drainage swale around almost all of the property, and it is classified as wetland, and there would need to be a crossing of not only the buffer, but the wetland as well. He said that is why they are here this evening.

Atty. Hollis went over all the relevant special exception points of law, as well as the nine special points of law for wetlands. He said that the Conservation Commission has recommended approval with two stipulations, which are agreed to. He showed the Board some pictures of the wetland and wetland buffer area, but the wetland area really has no function. He said that it will entail a one to two day construction period, and the area will be backfilled and will look the same as it did before.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

Board members all expressed support for the application.

MOTION by Mr. Shaw to approve the application on behalf of the owner as advertised. He said that the request is listed in the Table of Uses, Section 190-115.

Mr. Shaw said that the use will not create undue traffic congestion or unduly impair pedestrian safety, per testimony it is a small, minor temporary impact.

Mr. Shaw said that it will not overload public water, drainage or sewer or other municipal system, the intent is that it will tie into a sewer system.

Mr. Shaw said that all special regulations are fulfilled per testimony, the Conservation Commission has a favorable recommendation with two stipulations of approval and all nine special conditions will be adhered to.

Mr. Shaw stated that the use will not impair the integrity or be out of character with the neighborhood or be detrimental to the health, morals or welfare of the residents, it is a minor, temporary impact, and will only take a few days, and the restoration will make it look like it did originally, and this use is required due to the fact that the sewer line cannot tie into the sewer on Amherst Street.

Mr. Shaw said that the special condition is that they have agreed to the Conservation Commission approval from 10-10-19 with two stipulations of approval.

SECONDED by Mr. Minkarah.

MOTION CARRIED UNANIMOUSLY 5-0.

2. Chop Acquisition, LLC (Owner) ID Associates, Inc. (Applicant) 255-269 Amherst Street (Sheet G Lot 8) requesting the following variances from Land Use Code Section 190-108: 1) to exceed maximum number of wall signs, 3 permitted - 5 proposed; and, 2) to exceed maximum wall sign area, 150 sq.ft permitted, 431 sq.ft proposed. GB Zone, Ward 2.

Voting on this case:

JP Boucher, Chair

Mariellen MacKay, Clerk

Rob Shaw

Jay Minkarah

Nick Kanakis

Heather Dudko, Worcester, Mass. Ms. Dudko said that she is a sign consultant working with ID Associates. Ms. Dudko said that Floor & Décor is trying to come into the New England market, and there are now two stores, in Avon and Saugus Massachusetts.

Ms. Dudko said that they would take over the space where Bob's Stores and Staples are located. She said that they are proposing five wall signs, and submitted some photos how they would look on the building to the Board. She said that the "tile, wood and stone" signs direct the customers, and the customer pick-up sign directs customers where to pick up their orders, and the fifth sign is the main store sign. She said that the signs would be made of aluminum channel letters, face-lit, consistent with the signage in the area.

Ms. Dudko said the linear frontage of the building is 378 feet, and if the formula of 1.5 times the frontage is used, it would allow 567 square feet in total, and the proposal is for 431 square feet. She said it is a very large storefront. She said that they will also have a panel on the existing ground sign.

Ms. Dudko said that the variance will not be contrary to the public interest, its well within the proportion of the building, and does not alter the character of the neighborhood, as it is a commercial development. She said that it observes the spirit and intent of the ordinance, it is in proportion to the size of the storefront. She said that substantial justice would be done, and would not adversely impact the property values. She said it's a commercial area. She said that for hardship, they are using a prototypical package to advertise their main products, and need the visibility for their customers.

Mr. Shaw asked what the current size of the signage is for Bobs and Staples.

Mr. Falk said that he has copies of all the sign permits for this plaza, and said that Bobs received a variance in 1998 for 224 square feet, AC Moore has a permit for 144 square feet, Staples received a variance in 1997 for 255 square feet, but their permit was only for 180 square feet, so altogether, Bobs

and Staples come out to 404 square feet, with one wall sign each.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

No one.

Mr. Shaw said that considering the very large space that this business will occupy, the request is actually quite reasonable, and doesn't see it being burdensome, and is in support.

Mr. Minkarah agreed, but in hearing about the prior variances that were granted, and prior Boards found support. He said that the building is perpendicular to Amherst Street, and you can't see the building face from Amherst Street, so the view of the property has to be from the Everett Turnpike. He said that the signage has to be large enough to be seen, and to identify what is there. He said that he is in support.

Mr. Kanakis said that he agreed, and the proposed size is spaced out in a way that it looks less than the current signage.

Mrs. MacKay said that she is in favor, the building is so long, and the signage is very well spaced, and doesn't crowd, your eye doesn't focus on just one thing, and it is tastefully done.

MOTION by Mr. Shaw to approve the application on behalf of the owner as advertised, with both requests considered collectively. He said that the Board believes that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, there are several, as the primary structure runs perpendicular to Amherst Street, so that there is very little visibility to Amherst Street, and the primary visibility is to the turnpike, which is fairly far set back as well, and the signage will not actually be that significant at that distance, also, the previous occupants of the two storefronts utilized signage that was a little larger than what is proposed and by all apparent visual appearances, with the small signs, and the change in architecture of the storefront, it appears that the visual impact will be quite reasonable for this store.

Mr. Shaw said that the Board feels that it is within the spirit and intent of the ordinance.

Mr. Shaw said that there is no indication that it would negatively impact surrounding property values.

Mr. Shaw said that the request is within the public interest, and substantial justice is served, for both area variances.

SECONDED by Mr. Kanakis.

MOTION CARRIED UNANIMOUSLY 5-0.

3. Christos P. & Denise B. Scumniotales (Owners) GC Pizza Hut (Applicant) 303 Main Street (Sheet 100 Lot 5) requesting the following variances from Land Use Code Section 190-41 (B) (4 & 5): 1) for minimum stacking space length, 160 feet required, 86 feet proposed; and, 2) for minimum distance to drive-thru exit, minimum of 60 feet required - 31 feet proposed. D-3/MU Zone, Ward 6.

Voting on this case:

JP Boucher, Chair
Mariellen MacKay, Clerk
Rob Shaw
Efstathia Booras
Jay Minkarah

Nick Kanakis - not voting, has recused.

Robert Duval, TF Moran, Bedford, NH. Mr. Duval said that the request is for a walk-up Pizza Hut, with no indoor seating. He said that there is a walk-up window in the front, and a drive-thru window for pick-up only in the back. He said that the building is at the corner of Main Street and Lake Street, in the D-3/MU zone, where drive-through restaurants are permitted with a conditional use permit from the Planning Board. He said that the lot is small, less than 10,000 square feet, it is the location of Poor Pierre's Restaurant is.

Mr. Duval said that the site is almost entirely paved. He said that the building is a glass and block one-story building. He said the building elevations will be updated. He said that the

pizzas are ordered online, and picked up, and there is no transaction at the window, payment is made when you order online, or, at the counter in the front for walk-ins. He said that when a customer orders their pizza, they are given a scheduled time for pickup. He said that if a customer comes when the pizza isn't ready yet, the driver is instructed to either park their vehicle, or drive around the block.

Mr. Duval said that the typical transaction is less than one minute at the window, usually about 30 seconds. He said that the peak time starts in the 5:30 p.m. range, usually 20-30 customers per hour, and most of their traffic occurs after peak hour, so it's significantly different than a fast-food restaurant, and there are no morning hours since they're not open for breakfast. He said that this is a concept that has just started in the country, and the pick-up only idea seems to be catching on, and is working effectively. He said that one is under construction in Manchester, one in Concord NH, and another one that is approved in North Concord under construction. He said that this site is ideal for this type of use, and will get a lot of walk-in traffic.

Mr. Duval showed the drawing of the proposed architecture, which is a substantial improvement over what is existing, it will look modern, young, and reflects a nice update. He said that the building footprint will stay as is. He said that the building actually already has a drive-through window, as shown in the photos, and the new drive-through window will be in the same location. He said that the typical hours of operation will be 11:00 a.m. to 10:00 p.m. from Sunday to Thursday, and 11:00 a.m. to midnight on Friday and Saturday.

Mr. Duval said that the request would not be contrary to the public interest because this is a difficult site, it's been vacant, and it's in the public interest to turn vacant public buildings into thriving, successful businesses, and here is a nationally credible business that will put substantial investment into the lot, with a neighborhood friendly use that goes well with the surrounding neighborhood, in which there are already several fast-food restaurants, banks and stores.

Mr. Duval said that the proposed use would observe the spirit of the ordinance because the nature of the use is such that the stacking, where 160 feet is required, and 86 feet is proposed, and that should be adequate for this use. He said that the peak

hour is one car every two to three minutes, staying less than a minute, so most of the time, in fact, 40 of the 60 minutes of the peak hour, there will be no stacking at the window, and certainly having the ability to stack two, and if there is any reason, that it may see a delay, a car can park in the parking lot.

Mr. Duval said that the ordinance requires that there be 60 feet from the exit of the drive-through, in this case, there is 31 feet. He said that this distance is clear of the building. He said that there is plenty of sight distance for an exiting car, and due to the low volume of the drive-through for this use, they won't have the problem that the typical fast-food restaurant drive-through has, where if the car has to stop momentarily to wait for an opening in traffic or a gap from, they would tend to back up the stacking lane, and in this case, it wouldn't happen, because two-thirds of the time there is no stacking at all, so there is very little chance that a vehicle will cause a back-up through the drive-through lane, because there is no room for a couple of cars to wait.

Mr. Duval said that substantial justice would be served, because the propose use depends upon the pick-up component, as well as the walk-up component, and the harm to the public is nil, and there is no safety or negative traffic impacts to the public.

Mr. Duval said that the proposed use will not diminish the property values of surrounding properties, as in this case, it is self-evident that this upgrade will be a benefit to the neighborhood.

Mr. Duval said that this is a smaller sized corner lot, in an area where there are a lot of vehicles, it is a neighborhood central use, and will actually be reducing the amount of pavement on the lot, thereby reducing drainage runoff from the lot, there is a sidewalk around the lot with pedestrian phase that allows for easy access for people in the neighborhood to access the lot. He said it will be an ideal neighborhood-based business. He said that they believe that they meet all the criteria and ask for support.

Mr. Shaw said that he thought he heard that there would be three employee parking spaces, but only sees two on the plan.

Mr. Duval said that there are two marked spaces, and the other space would be for a delivery driver, and most of the time that employee is not on site. He said that there are seven spaces.

Mr. Shaw asked if the employee spaces would be clearly marked as employee spaces, to discourage customers from parking there.

Mr. Duval said that they would have a sign there.

Mr. Shaw said that he's generally ok with the proposal and the rationale about not meeting the stacking because of the nature of the drive-through business, and asked about how the pick-up will work, as if someone shows up early and the food is not ready, it was stated that they could just park in the parking lot, but doesn't see how that would work, because the pick-up window is almost right at the street already, and it looks like someone would have to back up, and perhaps that vehicle could fit into the handicap space if they have a placard, and is concerned that that it may be enough of a common occurrence that this happens, and isn't sure how this would be handled, and asked if there could be a small box that would be placed before the pick-up window that a customer could check to make sure it is ready for them to pull up. He said he isn't sure how a vehicle would maneuver if they show up at the window and their order is not ready.

Mr. Duval said that this concept does work successfully throughout the Northeast. He said that they have a scheduled pickup. He said that customers are given a specific time to pick up their order. He said that if there is a problem, or you arrive early, and it is busy or the parking lot is full, someone would just have to circle the site and come back. He said that this would happen infrequently. He said that they also could park in public parking and walk up.

Mr. Shaw said that he is concerned about the two exit lanes, and asked how they plan to handle the left and right turns onto Main Street. He said he sees some real conflict there, and is concerned with the shorter distance after the pickup window to the street, and doesn't give vehicles enough opportunity to merge into a single lane. He asked if this had been considered, and asked if any actions are planned for this.

Mr. Duval said he didn't think it would be a problem, due to the volumes here, and due to the frequent gaps that are provided by

the signal. He said that perhaps it's more of a Planning Board issue rather than a Zoning Board issue, and in the review of the traffic study for this project, the Planning Board could find that it's preferable to make a right-turn only.

Mr. Shaw said that this intersection has always been somewhat of a challenge, perhaps a right-turn only makes sense, but sometimes having signage or a concrete turn to force drivers to go a certain way, and people still sometimes work around it. He said that he is not satisfied that even that may be a sufficient solution.

Mr. Boucher said that if this is supported, it would be going as an approval to the Planning Board based upon the variances. He said that it is important that the Zoning Board look at this, as these are key issues for the Board to make a decision as to whether the drive-through will work or not. He said that this is a busy area, and it's one of the top four or five intersections on Main Street. He said that a lot of people try to take a left into Poor Pierre's, and it holds up traffic. He said that traffic on Lake Street going to Main Street is busy. He said that he likes the idea of what is being proposed, but is struggling with how the drive-through will work with limited size, basically half of what is required. He said that by telling customers to drive around the block, it's a long way around unless they go into Simoneau Plaza and turn around in there.

Mr. Duval said that just up the street at Bank of New England, there is almost an identical situation. He said that if the Board were to allow this use with some type of condition that makes them feel comfortable, it can go to the Planning Board and traffic can be discussed in detail, and believes that the Planning Board will have these same type of discussion. He said it's possible to have some sort of right-turn only onto Main Street.

Mrs. MacKay said that her concerns are the same. She said that trying to make a left into this establishment from Lake Street will be a nightmare. She said that all there needs to be is one car wanting to turn, and they'll block traffic, and it will stack up quickly. She said she has a real fear of the traffic pattern trying to exit and enter. She said she understands the business concept and believes it will be a rapid in and out, but the two lanes may block one of the cars who wants to back out,

they'll have to wait for a break in traffic. She said that the traffic here is really heavy. She said that Lake Street is busy, and also Main Street, no matter what time of day. She said she doesn't know how the traffic will be eased in and out of this site.

Mr. Minkarah said he has similar concerns, and understands that the Planning Board is the body that would look at the traffic. He said that the nature of the variance is that the Zoning Board is being asked to grant with how the traffic will flow, because clearly the stacking distance is an issue. He said that this is a very busy intersection, with turning movements happening all the time in every direction. He said that there is a driveway opposite the site that the Shell station has, and drivers are frequently trying to make a left out to Lake Street, so there is a lot of conflicting movement that is a concern. He said that they should have a narrow left onto Main Street. He said that drivers just cannot go around the block, they'd have to go so far out of their way, which is a concern. He said his concern with the stacking towards Lake Street is that if this were a quieter side street, he'd be less concerned, but Lake Street has a heavy volume of traffic, and the cars waiting at this intersection will result in cars blocking traffic. He said he is concerned if there is an issue at the window, and there's no place for a driver to go. He asked how deliveries are made.

Mr. Duval said that deliveries are made during off hours.

Mr. Boucher asked if there is data from other Pizza Hut locations that describe the business operations related to the pick-up window. He said that may help him understand how the real volume of cars works here. He asked about the walk-in traffic, and if that means that they physically park their car in the parking lot and walk up to get a pizza, or if it is only done through the drive-through window.

Mr. Duval said that there is a front counter, you can come in and pay and order, but most of the business is expected to be the drive-through.

Mr. Boucher asked what percentage of the customers would be the walk-up customers. He asked if there would be cars waiting to park to walk in.

Mr. Duval said that the company is putting together some data about this. He suggested potentially tabling this application to see what that data indicates. He said that there are some viable solutions to the concerns raised by the Board. He said that they could look at the sidewalk area by Main Street to reassure the Board.

Mr. Minkarah asked how a walk-up customer who drives into the site off of Lake Street would be discouraged from parking in the two spaces just off Lake Street, as they could be blocked by cars stacked in the drive-through.

Mr. Duval said that there would be a sign there, and there would be pavement markings.

Mrs. MacKay asked if there would be entrance only and exit only signs on the property.

Mr. Duval said that proper signage will be installed.

Mr. Boucher said that the next meeting is November 12, 2019, if the case is tabled. He said that it is a full agenda.

Mr. Duval said that is fine.

Mr. Boucher said that the Board would want to know how the site would be managed.

Mr. Duval said that there would be no cash transactions at the window, that is a rule, everyone pre-orders and pre-pays. He said that walk-ins can do a cash or monetary transaction at the counter, but at the window, it's literally pick up your food and drive away.

Mr. Shaw said that it appears as if the request is to work within the existing structure, and not do anything significantly different. He asked if there was any consideration to have a circular flow around the building where vehicles could actually drive around, but some of the building would need to be removed. He said it may not make sense from some regards, and was just looking for a way to move traffic around the site. He asked if this had even been contemplated at all.

Mr. Duval said that they could take a look at that.

Mr. Shaw said that he doesn't see how the operation would work if a customer is early and they pull up to the window, and would like to see more about their policy of how this is handled.

MOTION by Mr. Boucher to Table the request to the November 12, 2019 meeting, to get further information as per the discussion.

SECONDED by Mr. Shaw.

MOTION CARRIED UNANIMOUSLY 5-0.

4. Robert N. Rodrigue (Owner) Dawn Evans (Applicant) 41-B Fairmount Street (Sheet 127 Lot 3) requesting the following: 1) special exception from Land Use Code Section 190-47(B) to allow a major home occupation for a dog grooming business; and, 2) variance from Land Use Code Section 190-47 (B)(3) to allow dog grooming business in a detached trailer, where the use must be carried out strictly in principal building. RB Zone, Ward 4.

Voting on this case:

JP Boucher, Chair
Mariellen MacKay, Clerk
Rob Shaw
Efsthathia Booras
Nick Kanakis

Jay Minkarah - not voting, has recused

Tim Evans, 41-B Fairmount Street, Nashua, NH. Mr. Evans said he is here with his wife and the property owner. Mr. Evans said that they opened up the business as a mobile grooming business in 2008, in which a pick-up truck was used. He said that they recently lost their pick-up truck, but in the meantime, they've had to do the business in their driveway, and some customers can have their dog done in their home.

Mr. Evans said that a typical week is about five to ten customers. He said that his property has parking, as they have a large driveway. He said that all dogs must be leashed, or if it's a cat, it must be in a crate. He said that the only difference is that it is at their house, not someone else's. He said that they have always parked their trailer in the driveway, as the business was mobile until they lost their truck. He said

right down the street, someone has an ice cream truck that does the same thing, and there is another truck down the street as well.

Mr. Evans said that the use will not be contrary to the public interest, it's a very small amount of customers, it's about 20-25 a week, and about 5-10 would come to their house. He said that the hours are 10:30 a.m. to 5:00 p.m., and it is only one customer at a time, and it is by appointment only. He said that they have no kennels. He said that most days they work only a couple hours, if at all.

Mr. Evans said that the spirit of the ordinance is met, it doesn't really impact anyone, and are respectful of the neighbors who seem to be ok with it.

Mr. Evans said that substantial justice is done because this is a matter of survival for the family, they've had the business since 2008 and there is no other place to go.

Mr. Evans said that the property values of surrounding properties will not be diminished, they park the trailer in the same place as always, a lot of resources are not used, the yard and lot is clean, as shown in the submitted pictures. He said that if customers wait at their house, they ask them not to leave their car idling.

Mr. Evans said that for hardship, they would be out of business if this is not supported.

Mr. Evans said that for the special exception, it is listed in the Table of Uses. He said that for traffic, he said that there is never more than one car coming and going at any time.

Mr. Evans said that public utilities will not be impacted.

Mr. Evans said that for special regulations, he didn't think that this one applied.

Mr. Evans said that for the character of the neighborhood, prior to operating out of the driveway, they just parked it there at night and took it to customer's houses. He said that only one trailer has signage on it, and the other one is for sale.

Mr. Falk said that homeowners cannot have more than one commercial vehicle on their lot for a home business.

Mr. Kanakis said that he had some questions from a letter of opposition submitted by a neighbor.

Mr. Boucher said that the Board will take a five minute recess to allow the applicant to read the letters in opposition.

Mr. Kanakis asked about the scheduling, and asked how they can ensure that they don't have multiple cars showing up.

Mr. Evans said that they pre-book everything, and he makes sure that there is plenty of time in-between appointments, as his wife needs time to clean and prepare. He said that the most appointments could be four a day, but one may be at a remote location. He said that for pet hair, they use a clipper-vac, so it sucks all the hair as the clipping is done, so that there is minimal hair. He said that they do their best to not have it fly out the window. He said that his wife is not operating after 4:30 or 5:00.

Mr. Boucher said that one of the letters mentioned idling cars.

Mr. Evans said that perhaps there were a couple occasions where someone was in the street with a car idling. He said that since that has happened, he instructs customers to pull into their driveway. He said it is a year-round business.

Mr. Boucher asked about the trailer.

Mr. Evans said it is like a small RV trailer, it has propane.

Mr. Boucher asked about the hours of operation.

Mr. Evans said that 10:00 a.m. to 5:00 p.m. Tuesday through Saturday.

SPEAKING IN FAVOR:

No one.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS:

Mr. Boucher said that there were three letters in opposition, and are in the record. They are from:

Sandra Belknap, 40 Fairmount Street
Carol Tetler, 39 Fairmount Street
Stephanie & Jim Dufoe, 6 Hughey Street

SPEAKING IN FAVOR - REBUTTAL:

Dawn Evans, 41-B Fairmount Street, Nashua NH. Mrs. Evans said that the trailer is a mobile mini-salon, she said she does it year-round, and has since 2008. She said that a lot of the animals that she takes on are special needs animals, senior animals, and most of her clients have been with her for a long time. She said that her customers pull in the driveway, they greet the dog, talk to the owner, and the dog goes in the trailer with her, and most of the owners sit in their car in front of the trailer, sometimes it is for one hour, or an hour and a half. She said that when she's done, the dog goes in their car, and there is at least 45 min or an hour before the next customer arrives. She said that this happens at the most is three times per day, and about two to three days per week, there is not a constant flow of traffic. She said that she doesn't know what she would do without this business, and it's enough for her to get by for now. She said that she's always tried to be considerate to the neighbors, and feels like they've done everything they can work with them.

SPEAKING IN OPPOSITION OR WITH QUESTIONS OR CONCERNS - REBUTTAL:

No one present.

Mr. Boucher said that the Board is always looking at what the neighborhood says about something. He said that after hearing the applicant speak, he didn't think the business is what he thought it was, he thought it was much more intense, with cars waiting in line to have their dogs groomed. He said he doesn't find it congested, and there isn't a lot of traffic around there since the tannery closed. He said that it isn't a seven day a week operation.

Mr. Kanakis said that he also thought it was a much larger operation going on, with multiple cars there at a time, with a lot of appointments per day. He said that it's just a couple appointments a day, and only a few days a week, and believed

that they addressed all the complaints were brought up by abutters. He said that he could support the application.

Mr. Shaw said he's kind of struggling with it. He said that he is struggling conceptually regardless of who could be doing this. He said that there could be some fairly significant limits being placed, in terms of the total amount of the operation going on, and the noise, and the other issues that have been raised as concerns. He asked if he would like this use right across from his own home, and from a general concept of a major home occupation business should be pretty much in a way that it's almost you wouldn't even know what's going on, the appearance, the impact, the activity. He said that if we support this, there would have to be sufficient restrictions or limitations that would do a reasonable job in addressing the neighbors' concerns and try to apply the test of if it was my neighbor's driveway, what would I be willing to deal with.

Mrs. MacKay said that she initially had concerns, and wondered if this would be a big business, lots of cars. She said in listening to the applicant, she learned that this is almost a special needs dog grooming operation. She said the owner is also someone with disabilities who is working with special needs animals, so, the limits around what would happen have diminished the capacity, it has gone down in a large way. She said that the hours are 10:30-5:00, only two-three animals a day, cars won't be idling in the driveway so the owner will be there if there is any issue with animals having anxiety. She said she is in support, and the clientele is specialized.

Mr. Boucher said that he's in support of a few restrictions for the request, relating to the hours of operation and cars idling. He said that he feels that the applicant is aware of the concerns by the neighbors.

MOTION by Mr. Shaw to approve the special exception application on behalf of the owner as advertised. He said that the request is listed in the Table of Uses, Section 190-47 (B).

Mr. Shaw said that the use will not create undue traffic congestion or unduly impair pedestrian safety.

Mr. Shaw said that it will not overload public water, drainage or sewer or other municipal systems.

Mr. Shaw said that all special regulations are fulfilled per testimony, for a major home occupation, and the applicant has the petition for the variance to be voted on next.

Mr. Shaw stated that the use will not impair the integrity or be out of character with the neighborhood or be detrimental to the health, morals or welfare of the residents.

Mr. Shaw said that for special conditions that will apply to both the special exception and the variance, is that the hours of operation will be 10:00 a.m. to 5:00 p.m. Tuesday through Saturday; maximum of ten customer visits per week, and only one client at a time. He said that reasonable accommodations will be made as far as noise, and people coming for the dog grooming will be requested to park in the driveway where there is space to park, and no idling of vehicles.

SECONDED by Mrs. MacKay.

MOTION CARRIED UNANIMOUSLY 5-0.

MOTION by Mr. Shaw to approve the variance application on behalf of the owner as advertised. He said that the Board believes that the variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property, and the benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than the variance, he said that this is primarily that the business is conducted in the trailer, and that is where all the operational aspects of this business are, and they are actually renters, not owners of the home, so perhaps there are limitations in terms of what they could do in terms of operating the business inside the structure, but primarily it is the fact that the activity is already basically self-contained within the trailer itself.

Mr. Shaw said that the Board feels that it is within the spirit and intent of the ordinance.

Mr. Shaw said that there is no indication that it would negatively impact surrounding property values.

Mr. Shaw said that the request is within the public interest, and substantial justice is served.

SECONDED by Ms. Booras.

Mr. Boucher said that the ordinance allows one commercial vehicle, and they said that they are selling one of the two.

Mr. Shaw said that issue is part of the major home occupation, where only one commercial vehicle is permitted.

MOTION CARRIED UNANIMOUSLY 5-0.

MISCELLANEOUS:

REHEARING REQUESTS:

None.

REGIONAL IMPACT:

Mr. Falk said that there is an extra week in the schedule, and will email the agenda when it is ready.

MINUTES:

9-24-19:

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

SECONDED by Mr. Shaw.

MOTION CARRIED UNANIMOUSLY 5-0.

10-8-19:

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

SECONDED by Mr. Kanakis.

MOTION CARRIED UNANIMOUSLY 5-0.

MEETING DATES FOR 2020:

Mr. Falk will check the February 11th date, as it is when the New Hampshire Primary will take place, and will submit a revised

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schedule for the next meeting.

ADJOURNMENT:

Mr. Boucher called the meeting closed at 9:00 p.m.

Submitted by: Mrs. MacKay, Clerk.

CF - Taped Hearing