

**TOWN OF NEW BOSTON**

**NEW BOSTON ZONING BOARD OF ADJUSTMENT**

**Minutes of 2021 - Meeting conducted virtually, using ZOOM due to COVID-19 pandemic.**

**January 19, 2021**

The virtual meeting was called to order at 7:05 p.m. by Zoning Board Chairman David Craig. Present virtually were Vice Chairman Kenneth Clinton and regular members Michael Dahlberg and Anthony Olivier. Also present virtually was Zoning Board Clerk Nadine Scholes and Planning Coordinator Shannon Silver. Absent was alternate member Wayne Charest.

David Craig read the meeting preamble as follows,

**‘MEETING PREAMBLE DURING COVID-19 EMERGENCY**

Good evening, as Chairman of the Town of New Boston Zoning Board, I am invoking the provisions of RSA 91-A:2, III (b) during the current State of Emergency. Governor Sununu has issued Emergency Order #12, pursuant to Executive Order 2020-04, that allows local government and this public body to meet virtually. I am declaring that conducting this meeting is imperative and required in order to continue vital Town government, services and operations.

We have utilized the Zoom platform to conduct the meeting and all Board members will have the ability to communicate concurrently and the public has access to concurrently listen and if necessary, will be given the opportunity to participate in the meeting when opened for public comment.

If anyone has an issue connecting, they should contact Nadine Scholes [REDACTED]  
[REDACTED]

Property owners, applicant and direct abutters were given proper notice of this hearing, along with the instructions of how to access the meeting. Public Notice and Zoom access instructions were also posted for public view on the Town website.

To help minimize background noise and provide privacy to everyone, we have started this meeting with all microphones muted and video cameras off. You do not need to turn on your camera to participate in the meeting and we ask that everyone keep their microphones muted unless you would like to speak. Any public comment will need to wait until the meeting is opened to the public and will need full name and address stated for the record.

If anyone accessing this meeting is disruptive, they will be asked to cease the disruptive behavior. Should the disruption continue thereafter, that person will be automatically removed from the meeting.

Please be aware all votes taken during this meeting will be done by Roll Call vote. Let's start the meeting by taking a Roll Call attendance. When each member states their name, please also state if there is anyone else in the room with you during this meeting, under the provisions of the Right-to-know law.'

Roll Call attendance, David Craig present and alone, Kenneth Clinton present and alone, Michael Dahlberg present and alone, Anthony Olivier present and alone, Nadine Scholes present and alone and Shannon Silver present and alone.

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David Craig opened the Public Hearing.

**MERVA PROPERTIES, LLC, c/o JOSH & ZANE MERVA (APPLICANT)  
GLORIA SUK YEE MOK (OWNER)  
TFMORAN, INC. (AGENT)**

Application for a Special Exception

Location: Chestnut Hill Road

Tax/Map Lot #15/32-1

Small Scale Planned Commercial "COM" District

Present virtually for the hearing was Nick Golon, PE, TFMoran, Inc, Josh Merva, Zane Merva, John Merva, Linda Moreau and abutters Andrea Couture with Tracey Flanders, and Christopher & Anne Dodge.

Nick Golon explained he was the agent for the applicant and would present the proposed application on behalf of Merva Properties, LLC. He noted there were others on the call that are involved with the proposal, Josh and Zane Merva, John Merva and the Realtor for the Merva team.

Nick Golon stated that the purpose for the proposed application was to obtain the required Special Exception(s), to the New Boston Zoning Ordinance, Article II, Section 204.2, to permit complimentary uses allowed by Special Exception of warehouse, self-storage, vehicular repair and small engine repair facilities on the said property. Tax Map/Lot #15/32-1 is located on Chestnut Hill Road, with appx. 5.4 acres located in the Small Scale Planned Commercial District. The proposed development would consist of two (2) +/- 6,000 sq. ft. contractor buildings, with four (4) 1500 sq. units in each of the buildings. Nick Golon explained that per the Zoning Ordinance, the proposed uses are allowable by Special Exception(s) obtained by the Zoning Board. The business proposed by the applicants, Josh & Zane Merva is an auto enthusiast online business, which has been in business for 20+ years. They currently rent space in Hooksett, NH, and have been in that location the past 15 years. Zane Merva currently is a resident of New Boston and would like to move his business closer to home and create opportunities for businesses in New Boston. The auto enthusiast online business provides online guidance (how to guides) and reviews for the auto industry, which includes videos and photography that is posted in online forums and on their website. The applicants would most likely use only one (1) of the units for their business and the remaining would be available as rental units but they could expand into more than one (1) unit if the business grows.

Nick Golon explained that the applicants would potentially purchase all three (3) lots available, Tax Map/Lot #(s) 15/32-1, 15/32-2 & 15/32-3, but they are only proposing development on the one (1) lot, Tax Map/Lot #15/32-1, at this current time.

Nick Golon pointed out that the driveway would be centrally located to access the backlot. Chestnut Hill Road is a State Road, the driveway permit would be obtained

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from the State. The abutting properties are zoned Commercial to the south and east, Residential to the north and the Air Force Tracking Station is to the west.

Nick Golon presented the existing conditions plan showing the property has a fair amount of grade change, one of the development goals would be to create an even surface area for the purpose of building. A well and septic would be installed and would need to accommodate the uses. Also, a plan for a stormwater area is necessary for the water running off of the impervious surfaces.

Nick Golon explained that the conceptual site plan shows the location of the driveway, buildings, parking, well and septic. He noted that the requested uses generally are low generators of traffic flow and the intended uses seem to be consistent with the surrounding uses. He mentioned that the drive is located on the backside of the buildings would be oversized to accommodate the necessary turning radius for Emergency & Fire apparatus.

Nick Golon noted that the size of buildings were selected to fit the property size and would be consistent with the type of surrounding Commercial properties, with modest one (1) story design, each of the two (2) 6000 sq. ft. buildings would have four (4) units in each building, 1500 sq. feet per unit. He pointed out that the plan shows parking area, and some landscaping.

Nick Golon stated that there is a 100' wide PSNH transmission easement along the backside of the lot, development is not allowed within the easement and he said he would consider the easement to be an added buffer for the residential properties to the north. He explained that the stormwater area shown on the proposed site plan would need to be moved outside of the PSNH easement towards the east side of the buildings. There is also an existing easement for the septic shown on the plan for the abutting residential property and a 75' setback is required from the septic. Test pits had subsequently been completed on site for infiltration rates.

Nick Golon read over the Special Exception application submitted as follows:

*This request is for a special exception as provided in Article II, Section 204.2 of the Zoning Ordinance.*

Description of proposed use showing justification for a special exception:

*The applicant is proposing two (2) approximately 6000 sq. ft. contractor buildings on tax map 15, lot 32-1. The intent is for the applicant to use a portion of one of the buildings as office/warehouse space for their automotive enthusiast website business with the remaining portions to be rental space. Although office use is allowable in the commercial district, they are seeking relief to allow complimentary uses of warehouse, self-storage facility, contractor's yard, vehicular repair facility and small engine repair facility to maximize opportunities for future business tenants. The subject property is in excess of 5-acres (5.376 acres) and is located in the southeast quadrant of Town in close proximity to the Bedford and Amherst Town lines. A 100-foot wide PSNH (Eversource)*

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*transmission easement is located along the northernly side of the property, which as located provides an added level of buffer to the residential-agricultural zone located on the adjacent property to the north. Located on the opposite side of Chestnut Hill Road (west side) is an Eversource substation, and a recently approved tree and lawncare use is located directly to the south. Additional uses in the vicinity are the US Air Force Station to the south and otherwise vacant land.*

Criteria for a special exception.

1. Capacity of existing or planned community facilities, i.e. police, fire.

*There are no anticipated adverse impacts to the capacity of existing or planned community facilities as a result of the requested relief. The subject site will be served by onsite stormwater management areas, septic system and water well and the uses requested will not request an unusual demand on police and fire in comparison to uses that are allowable in the commercial district.*

2. The character of the area affected.

*The area is defined by multiple uses (including a conglomeration of uses at the US Air Force Station) and otherwise vacant land. The size of the buildings proposed are modest and are in keeping with other building sizes in the vicinity, such that the relief requested would not frustrate the purpose of the ordinance and would not alter the essential character of the locality.*

3. Traffic on Roads and highway in the immediate vicinity.

*Chestnut Hill Road which provides immediate access to the project site is a NHDOT maintained collector road of adequate capacity and construction to support the intended uses. Traffic generated by the intended uses is not of significance in comparison the allowable uses in the commercial district, and as such would not have a detrimental impact on traffic on roads and highway in the immediate vicinity. Adequate onsite parking and maneuvering area have also been provided to support the proposed uses.*

David Craig asked Nick Golon to explain what an automotive enthusiast website business is. Nick Golon stated that a car/auto enthusiast often would bring in a piece of equipment with a small engine or automobile and produces 'how to' tutorial, either by video or step by step instructions with photo details that are available online or published in articles in magazines/books. They also review products for pros and cons for consumers.

David Craig asked if they would put the product once they are finished with it on the property site to sell to the public. Nick Golon replied no, there would not be any sales of products or materials they are finished with either on site or online.

David Craig asked to verify how many units are proposed. Nick Golon replied there would be eight (8) units total, with four (4) units in each building. David Craig asked how many of the units would be occupied by the applicants for the auto enthusiast business. Nick Golon said they plan to start with occupying one (1) of the units and if needed they would expand to additional units if the business grew enough to need more

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space. The Merva's plan to rent out the other units to businesses that would be allowed to operate per the Zoning Ordinance, office buildings, etc. He noted that is why the applicants are requesting these additional uses with the special exception requests before they commit to develop the property and have prior knowledge of what would be allowed in the rental units. David Craig asked what types of businesses/tenants would be desired for the additional units. Nick Golon explained that the plan behind the request for special exception for additional uses permitted by this process was to include any use that would be a potential tenant. The uses requested could be considered uses the applicants could also fall under with their business operations, including the use of storage and/or warehouse, as they would be storing various elements and parts. Also, small engine repair/vehicle repair could be considered as a use for their business because a component could be disassembled and put back together. Nick Golon added that the applicants would not generally have customers dropping off a vehicle or equipment for repair but that could be a use desired by a tenant in the future.

David Craig confirmed that the applicants were requesting some type of blanket approval for a variety of uses that are allowed only by Special Exception(s) in the commercial district for the rental units to operate any one of the pre-approved uses. Nick Golon said that was correct and explained that these uses were determined to be requested because along with the applicants proposed use and the surrounding uses, projected that the rental units could be used for any one of these additional uses. If the applicants could not get approval for these uses in the rental units they may need to reconsider development somewhere else. The applicants whole business idea for this development is based on renting out the units they would not occupy and it would be difficult to rent them out if the uses permitted in the units are limited.

David Craig opined that he would be uncomfortable with approving a blanket type special exception for the entire site without having any details for the tenant's business operation, i.e. hours of operation, amount of volume, etc., for the occupants of the rental units.

Nick Golon explained that he and the applicants knew going into this, there would be additional specifics that would be necessary to address and include on a site plan, understanding that the special exception approval may need certain limitations with the approval on the additional rental units, but he thought that those specifics regarding the site operation, hours of operation, landscaping, etc., would be part of the second step of the approval process with the Planning Board and their review of the Site Plan with all the detail that is required by the regulations in order for the site plan to be approved by the Planning Board.

David Craig explained that he has been serving on the Zoning Board for 25+ years and he had never felt comfortable approving a use without some important details and the Planning Board handle the site operation specifics with the site plan review, and this particular application more so because there are many different uses requested. David Craig stated that he was not opposed to the applicants proposed use(s) but he would like further detail on the potential tenants and he preferred to review the potential

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tenants use of the property accordingly and not providing approval for all the requested uses for the site as a whole.

Ken Clinton agreed with David Craig regarding the unknown tenants and requiring additional review for each tenant's proposed use and operations but he also noted that he would not be in favor of approving the applicants proposed use as he still had questions/concerns regarding the applicants proposed use and business operations. He would like to see more detail from the applicants regarding their business operations because it was mentioned that they would be mainly operating inside and he had found a video that was posted by Zane Merva that showed him riding around outside on a snowmobile in a manner that he would not want to see happen on the site. Ken Clinton stated that he too would not be comfortable approving an open ended special exception and felt that the application presented was missing vital criteria in order for him to vote on the applicants use of the property and would like more detail presented before he could approve their Special Exception(s). He understood the property is zoned for commercial use and he was not against business coming into Town, that is always a plus, but he would want more details from the applicants as to what kind of activity would be happening on the site, hours of operation, amount of vehicles, noise levels, etc., but for the additional uses being approved for tenants, that he would not be in favor to approve uses for the rental units because it would be unknown what exactly would the tenants use of the property would be until they actually come forward to rent a unit.

Michael Dahlberg concurred with David Craig and Ken Clinton regarding the open ended approval. He also mentioned that he was most concerned by an apparent glossing over of the fact that there are two (2) residential abutters and he did not find identification for the distance from the site to these residential homes present on the plan or in the documents. The application proposed 8 separate units with a potential for 8 different uses and the site plan presented does not show any sound barrier or buffer that would remain between the property and the residential abutters. The plan proposal does not include any provisions in regards to the operations proposed, hours of operation, outside work and there is no consideration shown for protection for the residential neighbors that could be negatively impacted if the Zoning Board were to approve the Special Exception(s) as it has been presented.

Anthony Olivier agreed with the other members and did not have anything to add at this point.

David Craig asked Nick Golon if he would like to respond to the Board's comments.

Nick Golon noted that with hearing the Board's feedback and concerns he believed it would be best to adjust the proposed expectations. He understood the unknown use of the rental units is a concern and additional information would be necessary in order for the Board to take action on any additional uses for a potential tenant. He stated that perhaps the focus for the application should be on the Merva's proposed use and any action taken by the Board would be specific to their use/operation of the property. If they have potential tenants that need special exception for a use, they

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would need to come back to the Zoning Board in order to justify and act on those separately.

David Craig said the rental use was only one of the concerns, there are still many questions in regards to the Merva's use of the property. It was mentioned that the Merva's would film videos and photos inside but Ken Clinton had found and observed a video that showed different.

Zane Merva asked if he could clear up some confusion regarding the auto enthusiast business and what they actually do more specifically. He explained that he and his brother started the website [www.gm-trucks.com](http://www.gm-trucks.com) in 2000, which is an online general motors truck and SUV enthusiast website. Over those 20 years they have expanded that online forum to having significant relationships with many auto manufacturers around the world and other similar websites. Zane Merva noted that he was a writer and had written articles for the Boston Globe, and he is also a member of the Motor Press Association. Their business moto is an online version of Motor Trend or Car & Driver magazines. They evaluate cars, parts, off road vehicles and write reviews to post online of their findings. The video that Ken Clinton had observed was from Zane's personal youtube page and although they may in the future do something along these lines for the business, this was not part of their business at this time. They operate under normal office business hours and sit in front of a computer, take pictures/videos of products, which they do have a videographer that comes into their office one day a week to compile the images/videos to include in the reviews they post online. They are not disrespectful and not looking to create a commercial automotive repair facility that would be noisy and disruptive to the neighborhood.

David Craig asked Zane Merva what 'normal business hours' are for him. Zane Merva replied normally he is in the office 7am until about 5pm, Monday through Friday but he sometimes worked on the weekend. David Craig noted that the Planning Board would require more site operation details on the site plan but the Zoning Board has jurisdiction for the Special Exception approvals and the Board clearly all oppose approval without additional detail, even for the use presented for the applicants business. David Craig stated that an amendment should be made to the proposal based on the Board's concerns and presented in order for the Board to take action on the application.

Nick Golon stated that revisions would be possible and clarified the additional items the Board would like further details on as follows;

- hours of operation
- additional operation of the Merva's business
- noise and lighting with protection for the abutters to the north

He asked if there were other points that the Board needs clarified.

Ken Clinton explained that there is no specific list that identifies what is needed for the Board to grant an approval but he recommended that in addition to the items noted, an example of what the buildings would look like would be important/helpful to know. David Craig suggested the Merva's concentrate on their business use and then when they have a potential tenant they could come back for review to approve that use if acceptable.

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David Craig opened for public comment.

Andrea Couture (and Tracey Flanders present virtually) 364 Chestnut Hill Road, noted that her property abuts the said property and the septic easement on the applicant's property belongs to her property. She noted that she moved here for the rural environment, has lived here for 35 years and purchased her property before the property next door was even zoned commercial.

Andrea Couture went over her questions and concerns with the proposal as presented;

- visual and view changes, she asked if there would be a natural tree buffer kept along the backside of the property between the powerlines?;

- what types of businesses would be proposed on the 2 other lots that are not included on this proposal, it had been mentioned all 3 of the lots would be purchased by the Merva's and could be potentially used for future development;

- would there be bright lighting, especially in the back of the building, that could impact the residential properties, the tree coverage is thin already between the houses and the PSNH easement;

- what are the plans for the storage area identified on the plan as '30' gravel area', which she noted displays there would be no natural tree buffer remaining on the back side of the proposed buildings;

- there is already work being done on the lot, that is very loud and work starts as early as 6:30am on some days and has gone until after 5pm, there are trees within the PSNH easement are marked with blue ties.

- stormwater area shown in the easement would be moved to another location outside of the easement but still had concerns as to what that would be exactly and there is no consideration for the underground stream located in the easement, grading on the site could divert/impact the water running onto her property.

- what are the fuel storage plans, level of sound, hours of operation and noise barrier between the abutting residential properties.

- traffic increases and safety, Chestnut Hill Road has issues of people speeding, and the driveway she shares with other residential property has been difficult to pull out from because the blind spots, she has almost been struck many times.

Andrea Couture noted that she had called the State regarding the driveway and they explained to her that the site plan would need to be presented for a driveway permit and they would consider the use, road grading and site distance, which they said is a minimum of 400'.

Christopher and Anne Dodge explained that they are not direct abutters because of the 30' driveway access to the abutting lot between their property and the proposed development but do have the same concerns that Andrea Couture had covered, they submitted a letter (see file) to the Planning Department detailing their concerns but questioned if the units would have bay doors on the backside of the building. Nick Golon replied yes, each unit would have a bay door on the backside of the buildings.

Christopher Dodge said that concerned him and what impacts the development would have on his property value. Additionally, the water table and environmental impacts



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could be concerning, there are many wetlands around the area that enrich wildlife. He explained that the concern would also be the additional businesses could impact their well water level, which had already had issues of drying up when there were droughts in the past and the recovery is extremely slow. Their property is downstream from the development and this could impact runoff and the water table in the area.

Nick Golon explained that the State had specific regulations for wells and septic systems, which they would approve plans before installing these systems. Plus, an Alteration of Terrain permit would be required from the State because the area to be disturbed is over the threshold of 5 acres. They would need to obtain all State required permits for development and would be regulated by the State's permitting process.

The Board discussed the time frame needed in order to get the plans updated and what date could the continued hearing be scheduled for with applicants and decided the hearing would be continued on February 16, 2021. The Board requested that all plan updates be submitted to the Planning Department by February 9, 2021, to allow enough time for the Board to review before the February 16, 2021, meeting.

Ken Clinton **MOVED** to continue the hearing to February 16, 2021, and updated materials be submitted by February 9, 2021. Michael Dahlberg seconded the motion. The motion **PASSED**. 4-0, Roll Call Vote - David Craig-yes, Ken Clinton-yes, Michael Dahlberg-yes, Anthony Olivier-yes.

Review and approval of the December 15, 2020, meeting minutes, would be postponed to February 16, 2021.

There was no other business to discuss.

Anthony Olivier **MOVED** to adjourn at 8:24 p.m. Michael Dahlberg seconded the motion and it **PASSED** unanimously.

Respectfully submitted,  
Nadine Scholes, Zoning Board Clerk

Minutes Approved: 03/16/21