



Stratham Zoning Board of Adjustment Meeting Minutes
July 1, 2025
Stratham Municipal Center
Time: 7:00 pm

Members' Present: Drew Pierce, Chair
Brent Eastwood, Vice Chair
Lucy Cushman, Member
Donna Jensen, Member

Members Absent: Frank MacMillan, Member

Staff Present: Vanessa Price, Director of Planning & Building
Jason Durrance, Building Inspector, Code Enforcement Officer

1. Call to Order/Roll Call

Mr. Pierce called the meeting to order at 7:02 pm and took roll call. Mr. Pierce made it known that there are only four members present which is one member short of a full Board.

2. Approval of Minutes:

a. December 3, 2024

Mr. Eastwood made a motion to approve December 3, 2024, meeting minutes as drafted. Ms. Cushman seconded the motion. All voted in favor; motion passed.

3. New Business:

a. **Case #682:** 41 Portsmouth Avenue LLC (Applicant) and 41 Portsmouth Avenue Realty LLC (Owner) Tax Map 9, Lot 4, Zoned Residential/Agricultural and Gateway Commercial Business. Request for approval of a variance from Section 3.6 Table of Uses for a Motor Vehicle Dealership in the Residential/Agricultural District.

Mr. Pierce mentioned that there are only four members present on the board, which is one short of a full board, and he asked if the applicant wanted to continue the meeting, and the applicant agreed.

Bruce Scamman of Emanuel Engineering asked to make a presentation.

Meredith Goldstien, an Attorney at Orro and Reno, started by saying they represent Christopher Lane with MacFarland Ford, 41 Portsmouth Ave, the applicant, and along with her is Mr. Scamman. She stated that this application is for a Kia dealership and a small portion of the property, which is in the Residential and Agricultural district, where a parking lot is going to be installed.

Ms. Goldstein stated that the majority of the parcel is zoned in the Gateway Commercial Business District, and a small portion is in the Residential/Agricultural district, where cars are going to be stored, and that the planning board asked the applicant to apply for a Variance through the Zoning Board of Adjustment. She proceeded to review the five criteria of the variance application. She explained

45 whether the application will be contrary to the public interest. She stated that the New Hampshire
46 courts look at whether or not the character of the area will be altered in a negative way. She mentioned
47 that there are other dealerships in the area and agreed that the character will not be altered. She also
48 mentioned that abutting parcel has the same characteristics, where half is in the Gateway district and
49 the other half in the Residential district. The abutter submitted a letter of support for this application.
50 Ms. Goldstein mentioned that the courts also instructed them to look at whether or not the public
51 health, safety and welfare will be negatively impacted, and they have decided that it's the reverse, the
52 parking lot will be beneficial to the dealership to allow the dealership to maintain the cars on the
53 property to cut down on the traffic due to the fact that it will allow them to bring customers on site
54 rather than off site for test drives and reducing shipments of vehicles.

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56 Ms. Goldstein moves onto the second criteria, the spirit of the ordinance. She describes the goal is
57 open space and low density and the intent is observed. She mentions that there is no way for the
58 dealership to build any part of their building on that residential part of the property.

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60 Ms. Jensen asked Ms. Goldstein what the size of the portion of the lot that resides in the residential
61 district and Mr. Scamman replied that back in 2004, he did the subdivision of the original property.
62 The intent, at that time, was for lot line adjustment to appeal to dealerships so that they had enough
63 land to park cars on and to prevent cars crossing over Portsmouth Ave and eventually turning Frying
64 Pan Lane into a parking lot.

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66 Ms. Jensen asked how many cars would be parked in that lot and Mr. Scamman replied that he wasn't
67 too sure of the exact number but somewhere around 100 cars. Mr. Scamman adds that another benefit
68 is that the use of the central road between the dealers will help keep the delivery and loading trucks
69 off of Portsmouth Ave.

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71 Ms. Goldstein moves onto the third criteria, that substantial justice will be done. She explains this is
72 due to the fact that based on what Mr. Scamman just explained, it's safer to have the central road in
73 the back and the cars in that lot so that traffic is off Portsmouth Ave. She also adds that it's just a
74 parking lot and not part of the large building, its main purpose is the ease of keeping everything in one
75 place.

76
77 Ms. Goldstein addresses the fourth criteria, which is, will the value of the surrounding properties be
78 diminished. She stated that most of the properties along Portsmouth Ave are commercial businesses.
79 She adds that a small parking lot near residential residence shall not impede the value of their homes.

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81 Lastly, Ms. Goldstein talks about the fifth criteria, whether literal enforcement of the provision of the
82 ordinance would result in hardship. She agrees that it would create hardship because this is a unique
83 property that, again, they have small residential, rectangular piece that can't be used separately from
84 the dealership. It's not subdividable. It makes sense to allow this property to work with the dealership.
85 This property is again divided by that district boundary line which makes it unique, and the
86 surrounding properties will not be impacted because they have that large easement behind the property
87 that protects the open space in the area. She adds that these make this property unique, and allowing a
88 small portion to be used with the dealership is what makes the most sense for the property. There's a
89 fair and substantial relationship between the general public purpose of the ordinance and the specific
90 application of this property. She explained the intention would be for this to run seamlessly with the
91 car dealership. Mr. Scamman explained this would allow the dealership to operate more efficiently
92 and in a safer manner, as discussed earlier. He further explained that the residential agricultural district
93 is designed to ensure open space is preserved, and the large conservation easement behind us does

that, and the fact that this is right on the zoning district allowing this small portion of parking will not hinder the intention of the ordinance.

Mr. Scamman adds that there will be a retaining wall added to the back of the property to protect the conservation area behind the lot and stop things such as snow getting pushed off the lot to that area.

Mr. Pierce asked why the parcel has been divided into two different districts in the first place.

Mr. Scamman replied that this is an arbitrary line that's 800 feet back, and that's how the districts were created in the past. He adds, the only other thing to be thinking about is this brings in more tax dollars to the town, where, if it was left out and just was green space. He explained that in the green space, there's a leach field that's underneath. Mr. Scamman described that the parcel wouldn't most likely be residential land, with this type of use in the front could be used and then additionally taxed by the town, so it becomes more usable land in that sense.

Mr. Scamman explains that the Town will make them put in a row of trees as a buffer from the visual impact of the parking lot, but he also adds that those houses will lose the view of Scamman farm with the addition of those trees.

Mr. Pierce asks if they can speak to the potential environmental risk to the expansion into that zoning district and Mr. Scamman replies that they designed the parking lot for water to flow away from the conservation land and that they are working with UNH for sand filters to filter that storm water.

Ms. Jensen adds that she's concerned about the lack of green space and wants to know if there is a threshold and Mr. Scamman replies that there are Bio-ponds and there will be green planted around those ponds at three locations on that lot.

Mr. Pierce made a motion to open the meeting to the public, Mr. Eastwood seconded the motion and all were in favor.

There was no one from the public to speak. Mr. Pierce mentioned that they would like to put on the record the letter from 12 River Rd, that they agree with the application with conditions such as planting landscape.

Mr. Pierce made a motion to close the public part of the meeting and move to deliberations, Mr. Eastwood seconded the motion and all are in favor.

Mr. Pierce announced the Board would move into deliberations and determine if the application meets the variance criteria.

Criteria 1: The variance will not be contrary to the public interest:

Mr. Eastwood and Ms. Cushman add that they noticed that the Subaru Dealership has a similar parking lot for holding cars.

Mr. Pierce agrees that it will not be contrary. Mr. Eastwood seconded the motion. All agree 4-0

Criteria 2: The spirit of the ordinance is observed:

Mr. Pierce stated that they are just moving an arbitrary line and the property is surrounded by similar uses. Ms. Cushman and Ms. Jensen talked about the trucks parked in the middle of Portsmouth Ave and the alignment of the entry of the new dealership.

All agree 4-0

Criteria 3: Substantial justice is done:

All Agree 4-0

Criteria 4: The values of surrounding properties are not diminished:

Mr. Pierce mentioned that the dealership will still be the same use as the surrounding properties, which will not diminish their value.

All Agree 4-0

Criteria 5: Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:

Mr. Pierce asked to get the conditions from the letter received from the Lawyer that represents 12 River Rd approved and recorded and all members of the board agree.

All Agree 4-0

Mr. Pierce moves that the Zoning Board approve the variance application, submitted by submitted by 41 Portsmouth Avenue LLC (Applicant) and 41 Portsmouth Avenue Realty LLC (Owner)Tax Map 9, Lot 4, Zoned Residential/Agricultural and Gateway Commercial Business. Request for approval of a variance from Section 3.6 Table of Uses for a Motor Vehicle Dealership in the Residential/Agricultural District as the Board determined the application meets all of the variance criteria per the Board's deliberations and subject to the following conditions:

- 1. A buffer running along the easterly portion of 12 River Rd and one half of the northerly portion of 12 River Rd will include trees and heavy bushes to act as a screen. They shall also plant low bushes and plantings in the remaining half of the northerly buffer to preserve the view from the house of the farmland and conservation land.**
- 2. An easement shall be placed over the paved access road entering into and running through 41 Portsmouth Ave property. This Easement would turn to the left, run through the entrance to the "to-be-constructed" parking lot, and along the northerly buffer to the other side.**
- 3. This variance will become null and void if not executed within two years of the notice of decision.**

Mr. Eastwood seconded the motion, with all in favor. Motion passed 4-0

The Chair reviewed proposed amendments to the Zoning Board of Adjustment's Rules of Procedure, including revisions to clarify the meeting locations, meeting schedule, joint meetings, nonpublic sessions, the fee schedule and the incorporation of site walk protocols. After brief discussion, the Board agreed to defer consideration of the proposed changes to the next regularly scheduled meeting.

192 **4. Adjournment**

193 Mr. Pierce stated that the meeting was adjourned at 8:30 p.m.