

## TOWN OF THORNTON

Approved on: 12.3.2014  
ZBA Initials: [Signature]  
Rec'd by Town Clerk on: 12/11/14  
Town Clerk Initials: [Signature]

### ZONING BOARD OF ADJUSTMENT MEETING MINUTES Wednesday, November 19, 2014

#### CALL TO ORDER:

J. Demeritt called the meeting to order at 7:00pm.

#### ROLL CALL:

The following members were present:

Jim Demeritt                      David Gravel                      Dennis Day  
William Rose                      Chris Hodges, Alternate

C. Hodges was appointed a voting member for the meeting as J. Marshall was not present.

**UNFINISHED BUSINESS:** None

#### PUBLIC HEARING:

J. Demeritt opened the Public Hearing at 7:02pm and read the following Notice of Public Hearing:

Public Hearing to consider the application submitted by property owners E. Pope and R. Tice for a Variance from *Article V Permitted Uses in Various Zones: B. General Residence Zone* to allow them to operate as a NH Retail Auto Dealer in the General Residence Zone on property identified as Tax Map 16 Lot 7-6 located at 28 Pope Drive and Tax Map 16 Lot 7-62 located on NH Rt. 175.

J. Demeritt explained that upon initial review of the application documents submitted some confusion remained as to the purpose/reason for the application for a variance.

J. Demeritt noted for the record that the applicant brought to the meeting the following two documents:

1. State of NH Official Dealer Registration Rules - 41 pages (only pages 10 & 13 submitted with application)
2. State of NH letter dated Feb 28, 1997 with Selectmen signatures that the bonded dealer complies with local ordinances.

J. Demeritt asked what has changed in the State requirements that initiated the need to apply for a variance.

R. Tice responded that the State is doing away with the bonded dealer status and as a retail dealer they will be allowed to issue 20-day plates and unsafe vehicle stickers, complete title applications and will be required to have a at least 1200 sq. ft. of garage space.

J. Demeritt asked if the garage area will be open to the public.

R. Tice responded that the garage has been and will continue to only be used to service the cars that are purchased to sell on the car lot.

J. Demeritt asked if the state was going to have an issue with the retail auto sales being conducted on two separate parcels of land.

R. Tice responded that the state indicated they may allow the garage to be on a separate parcel as an annex but that zoning approval would be required.

D. Gravel asked if the garage met the other requirements set forth in the State regulations.

R. Tice stated that they have updated the electrical systems and added emergency lighting so that the garage now meets the state requirements.

C. Hodges clarified that the State is doing away with the bonded auto sales dealer classification.

D. Gravel asked if the dealership is grandfathered.

J. Demeritt stated that the sales lot is grandfathered, but that the use associated with the auto sales business has not yet been applied to the lot with the garage (Map 16 Lot 7-6).

J. Demeritt recalled that the Selectmen required a trailer be used as the office on the car lot (Map 16 Lot 7-62) so that a commercial building would not be erected on the site to make allowance for the use of the parcel to revert to a residential use when the property is sold.

W. Rose summarized that part of the business is an allowed non-conforming use that was in place prior to zoning. W. Rose asked what documentation is on file regarding the history of the use.

J. Demeritt stated a list was created of businesses that existed prior to zoning and that the Pope Auto Sales is on the list.

W. Rose asked how the application made its way to the Zoning Board of Adjustment.

R. Tice stated that he needs a Variance so that when they file with the state for a license the state will ask if they meet the requirements of the local ordinances.

R. Tice added that he met with the Planning Board on September 18, 2014 to discuss the issue.

The Zoning Board reviewed the minutes of the September 18, 2014 Planning Board meeting.

W. Rose stated that if it is a non-conforming use question then the request for a variance issue is not what needs to be addressed.

R. Tice stated that the car lot was grandfathered but that the garage they are now going to be required to have is located on a separate lot.

C. Hodges stated that the applicant needs documentation from the town that they comply with the Zoning Ordinance.

C. Hodges stated that if they are not changing anything that they were doing then they can receive written documentation from the town that they are operating as they have always been authorized to do.

W. Rose pointed out that a variance once granted continues with the land even if it is sold to a new owner.

W. Rose noted the following:

***State Regulations Saf-C 2003.04 Local Notification and Approval***

- 1. Upon receipt of a completed form DSMV-349, the department shall notify the town clerk in the municipality where the business is located.*
- 2. The department shall allow 10 working days for the local government to advise whether or not the applicant's business conforms with or is conflict with existing zoning, building code or other land-use regulatory requirements.*

W. Rose noted the form has a question for municipal officials to check off which reads: "Complies with local ordinances or requirements or has a variance to operate".

J. Demeritt asked to review the Planning Board minutes of June 19, 2014 where the Planning Board granted approval for a sign permit which directed people to the location of the sales office.

W. Rose asked if the garage has been in use as long as the sales lot has been in existence.

R. Tice responded that it has been in use for several years.

W. Rose suggested that the business as it exists currently complies with the Zoning Ordinance as an existing non-conforming use.

R. Tice stated that the garage is used only to prepare the cars for the sale lot and that no warranty work is done on the cars that they sell.

R. Tice stated that when warranty work is done, the customer takes it to another garage and they work out making payment to the customer for the warranty work that is necessary.

R. Tice stated the garage has been used this way for at least ten years.

D. Gravel asked if any abutters wanted to speak to the issue.

S. Wallor, President of Mt. River Condo Association, stated that she was not even aware that the garage existed and has no problem with the business continuing.

W. Peltier, abutter, stated that he has no problem with the business continuing.

J. Demeritt read an email message from former abutter W. Fligg who also has no problem with the business continuing.

W. Rose stated again that if the use on both lots predates the Zoning Ordinance then there is no need for a Variance, but rather the use complies with the Zoning Ordinance as stated in Article VIII E. Nonconforming Uses and Structures.

W. Rose suggested the ZBA continue the Public Hearing to allow for a ZBA representative and the applicant to attend the Planning Board hearing scheduled for November 20, 2014 to discuss and determine if the Planning Board and Zoning Board of Adjustment are in agreement that the issue does in fact revolve around a nonconforming use.

J. Demeritt and D. Gravel stated they would attend the Planning Board meeting on November 20, 2014.

**MOTION: "In order to obtain concurrence with the Planning Board that the issue does in fact revolve around a nonconforming use, to continue the Public Hearing to consider the application submitted by property owners E. Pope and R. Tice for a Variance from Article V Permitted Uses in Various Zones: B. General Residence Zone to allow them to operate as a NH Retail Auto Dealer in the General Residence Zone on property identified as Tax Map 16 Lot 7-6 located at 28 Pope Drive and Tax Map 16 Lot 7-62 located on NH Rt. 175 to Wednesday, December 3, 2014 at 6:30pm."**

Motion: W. Rose

Seconded: D. Gravel

Discussion: None

Motion Passes: 5 – Yes, 0 – No

**NEW BUSINESS:**

1. FY2015 Budget:

J. Demeritt stated that he will present the proposed FY2015 budget for the Zoning Board of Adjustment and that it will be level funded.

**APPROVAL OF MINUTES:**

**MOTION: "To approve the minutes of February 18, 2014 as presented."**

Motion: D. Gravel

Seconded: D. Day

Discussion: None

Motion Passes: 4 – Yes, 0 – No

Abstained: W. Rose

**COMMUNICATIONS AND MISCELLANEOUS:** None

**OTHER BUSINESS:** None

**ADJOURNMENT:**

The following motion was made at 8:15pm:

**MOTION: "To adjourn."**

Motion: D. Day

Seconded: C. Hodges

Discussion: None

Motion Passes: 4 – Yes, 0 – No

Respectively Submitted,  
Nancy Decoteau

**TOWN OF THORNTON**  
**Zoning Board of Adjustment**

**AGENDA**  
**Wednesday, December 3, 2014**  
**6:30 PM**

**CALL TO ORDER:**

**ROLL CALL:** Jim Demeritt                      David Gravel                      Dennis Day  
                  William Rose                      Joan Marshall  
                  Chris Hodges, Alternate

**APPROVAL OF MINUTES:** November 19, 2014

**UNFINISHED BUSINESS:** None

**CONTINUED PUBLIC HEARING:**

**1. 7:00pm / Public Hearing: Variance**

Public Hearing to consider the application submitted by property owners E. Pope and R. Tice for a Variance from *Article V Permitted Uses in Various Zones: B. General Residence Zone* to allow them to operate as a NH Retail Auto Dealer in the General Residence Zone on property identified as Tax Map 16 Lot 7-6 located at 28 Pope Drive and Tax Map 16 Lot 7-62 located on NH Rt. 175.

**NEW BUSINESS:**

1. Annual Report: photo and written report

**COMMUNICATIONS AND MISCELLANEOUS:**

**OTHER BUSINESS:**

**ADJOURNMENT:**

**Zoning Board of Adjustment  
December 3, 2014  
SIGN IN SHEET (Please Print)**

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