

ZONING BOARD OF ADJUSTMENT MEETING MINUTES
Tuesday, December 15, 2015

CALL TO ORDER:

D. Gravel called the meeting to order at 7:04pm.

ROLL CALL:

The following members were present: D. Gravel D. Day J. Marshall W. Rose

The following member was not present: C. Hodges

Staff Present: B. Regan, Planning Director, N. Decoteau, Admin Assistant

APPROVAL OF MINUTES:

No minutes were presented for approval.

PUBLIC HEARING:

D. Gravel opened the Public Hearing at 7:05pm and read the following notice into the record:

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 a NH Retail Auto Dealer in the General Residence Zone on property identified as Tax Map 16 Lot 7-62 located on NH Rt. 175.

D. Gravel asked the applicant to explain the difference between a bonded dealer and a retail dealer.

R. Tice stated that the only difference between a retail dealer and a bonded dealer is that a retail dealer can have dealer plates and issue 20-day plates but a bonded dealer can not have dealer plates or issue 20-day plates.

R. Tice stated the State of NH is no longer licensing bonded dealers and their request is to allow Pope Auto Sales to continue as it exists.

R. Tice stated they came to the ZBA in 2014 because there was a requirement to provide 1250 sq. ft. garage space.

R. Tice stated the State of NH has changed the wording of that requirement to "a permanent physical structure that has at least 750 square feet OR is primarily dedicated to the business of selling vehicles".

R. Tice stated that because the word "OR" was added the trailer they use as an office meets the requirement because it is primarily dedicated to the business of selling vehicles, thus they no longer have to meet the square footage requirement.

D. Gravel asked what the square footage of the trailer is.

R. Tice responded that the NH State inspector who visited his sales lot to check his paperwork is the same person who will perform the inspection for the retail license and that the inspector indicated the wording was changed to include the word "or" to accommodate people in a position similar to Pope Auto Sales, and that he did not see a problem with using the trailer but also noted he is not the person responsible to make the final decision.

R. Tice stated that he is requesting that the town say a retail dealer is an acceptable use so that their application can move forward with the State of NH.

R. Tice added that if they can not meet the requirements set by the State of NH then that will be between the State of NH and Pope Auto Sales.

W. Rose asked if the applicant had any correspondence from the State of NH regarding this issue.

R. Tice presented a letter from the NH Dept. of Safety dated November 23, 2015 into the record which included the following information: (*Document 1*)

"This letter is in regards to your Application for Retail Dealer License and Registration, located at Route 175, Thornton, NH. The Division of Motor Vehicles has denied your application at this time due to the Town of Thornton's denial. For further information on the denial from the Town of Thornton you may contact Brian Regan, Planning Director for the Town of Thornton at 603-726-8168. Enclosed are your Criminal Background Information, original Bond Rider and Certificate of Good Standing.

Please expect to receive a refund once it has been processed by the business office, which will be in the amount of 75% of the license fee you originally submitted, per RSA 261:103-a II.

Thank you for your application. You may reapply as new at a later date. If you have any questions please do not hesitate to contact the Dealer/Inspection Desk at 603/227-4120."

W. Rose reviewed the letter and summarized that the letter stated the application submitted by Ed Pope Auto Sales for a retail dealer License and registration was denied because of the Town's response.

W. Rose asked Planning Director, B. Regan to comment on the Town's response.

B. Regan referred to the following documents which were made available to ZBA members:

1. State of NH form signed by S. Morton, Chairman of the Board of Selectmen on January 7, 2015.
2. Letter from the State of NH dated October 31, 2015 addressed to Susan M. Lyons
3. NH State form re: Retail Vehicle Dealer application for Ed Pope Auto Sales
4. Letter from B. Regan to NH Dept. of Safety/C. Ialuna dated November 10, 2015
5. Completed NH State form re: Retail Vehicle Dealer application for Ed Pope Auto Sales
6. Addendum "A" attached to NH State form re: Retail Vehicle Dealer application for Ed Pope Auto Sales
7. Memorandum to Board of Selectmen dated November 9, 2015

B. Regan stated the NH State form sent last year was signed by the Chairman of the Board of Selectmen.

B. Regan noted that the State form sent this year was addressed to S. Lyons who is no longer Town Clerk and, given the nature of the matter, the notice and form were directed to him for review.

B. Regan further stated that upon his review he determined the letter and accompanying form were delivered to the Town Clerk as required by NH RSA 541-A:39, a section of the Administrative Procedures Act because the applicant was seeking a state license to do business within the Town of Thornton.

B. Regan stated the matter was brought to the attention of the Town Administrator to determine who should review/complete the form.

B. Regan stated it was determined that he would do further research and present it to the Board of Selectmen for their review to determine who should complete the form.

B. Regan stated the Board of Selectmen reviewed his Memorandum dated November 9, 2015 at their meeting on that day and that the Board of Selectmen determined he was the appropriate person to respond.

B. Regan stated the State of NH form sent this year had different questions than the State of NH form sent a year ago.

B. Regan stated that he reviewed the history of the matter, the applicable NH RSA's, and administrative rules applicable relative to the Town of Thornton and the property in question.

B. Regan noted his response to the question, "Complies with local ordinances or requirements or has a variance to operate" which included the following wording: "No. *The Bonded Dealer (Ed Pope Auto Sales f/k/a Ed Pope Bonded) had been operating under a non-conforming use deemed to be "grandfathered" by the Town's Zoning Board of Adjustment. Any attempted expansion of the non-conforming use would present a violation of the town's Zoning Ordinance. The business office consists of one small travel trailer. There is no permanent physical structure on the property.*"

W. Rose asked if the applicant has plans to expand.

R. Tice responded he is not planning to expand and is only seeking to change the type of NH State license he holds.

R. Tice submitted the State of NH form for an application to be a bonded dealer dated March 3, 1997 with the question "Complies with local ordinances or requirements or has a variance to operate" checked as "Yes" into the record. (*Document #2*)

J. Marshall asked B. Regan what he sees as being the expansion.

B. Regan responded that he did not state there is an expansion but rather explained in his response that any expansion of a use which is "grandfathered" would likely be a violation.

J. Marshall asked B. Regan if he considered the change from a bonded dealer to a retail dealer to be an expansion of the existing use.

B. Regan stated the retail dealer license requirements are different for a bonded dealer with regard to the structure used for the business and added the State of NH requirements for a retail dealer license will be regulated by the State of NH not the Town of Thornton.

B. Regan stated that the second question on the form "Is the property zoned for commercial use" was not included on previous State of NH forms.

B. Regan stated the property in question is located in the General Residential Zone and Auto Sales is not permitted in that zone.

D. Day stated his opinion that the question could be answered "yes" because the use is "grandfathered"

B. Regan disagreed.

B. Regan stated his answer to the third question: "Can motor vehicles be displayed and/or stored?" was "Yes. The lot is 1.01 acres and is primarily level in topography."

B. Regan stated that in response to "list any restrictions" he included the two stipulations made by the Thornton Board of Selectmen on May 12, 1988 that 1.) no more than 4 automobiles for sale on the premises and 2.) no additional signs allowed.

B. Regan added that there is a long history that spans over many years and although the Zoning Board of Adjustment saw fit to see this as a non-conforming use that was continuing a year ago, the history shows that the original non-conforming use was across the road and moved to the current location after the applicant purchased the parcel.

B. Regan stated in summary that the response to the "Existing Bonded Dealer (X 238) Ed Pope Auto Sales applying to become a retail dealer. Please approve or deny" is to deny the applicant's appointment.

B. Regan stated the letter submitted by R. Tice earlier (*Document 1*) was the response from the State of NH to the Town's submission of the completed form.

K. French spoke on behalf of the applicant.

K. French agreed that the response to the question "Complies with local ordinances or requirements or has a variance to operate" is "no".

K. French stated he spoke with a friend who is an auto sales dealer in NH who confirmed that the State of NH is no longer licensing bonded dealers.

K. French stated that the wording of the State of NH form "does comply or have a variance" is what has driven the applicant to the Zoning Board of Adjustment.

K. French stated if the applicants are granted the variance they will be allowed to continue the business they have been running for the past 45 years.

K. French stated his opinion that the applicants are merely trying to meet the requirements as a result of a change in the State of NH regulations.

D. Gravel asked for input from any other abutters who desire to speak in favor of the application.

W. Peltier stated he has owned property adjacent to the Ed Pope Auto Sales lot for 22 years and that he has no problems with the business they operate.

D. Day asked what a retail dealer is authorized to do.

R. Tice stated they just want to continue what they are currently doing.

D. Day stated his understanding that their intention is to remain the same, but was asking what the State of NH permits a retail dealer to do.

J. Marshall asked what would someone who purchased the property in the years to come be permitted to do with the State of NH retail dealer license.

D. Day asked if anyone has reviewed the State of NH laws regarding what is permitted under a State of NH retail dealer license.

D. Gravel stated the issue relative to the Board of Selectmen restriction made in May 1988: "no more than 4 automobiles for sale on the premises" should be discussed as he has observed more than 4 cars are consistently present on the site.

D. Gravel asked if the applicant is aware of the restriction.

R. Tice responded that in doing research he found a note regarding the 4 car restriction and added that it has never been enforced.

J. Marshall stated that adds to her concern regarding what a future owner of the property will do.

E. Pope insisted that she does not intend to sell the property.

D. Gravel stated that RSA 259:29-a III(b) (*Established place of business as it applies to Retail Dealer*) states that such business location "is a permanent physical structure that has at least 750 square feet or is primarily dedicated to the business of selling vehicles; and".

D. Gravel stated that since the applicant has referred to the use of a travel trailer on the site, clarification is necessary regarding what is going to be used to meet the requirement of having a permanent structure.

R. Tice submitted his State of NH Application for Retail Dealer License and Registration (*Document 3*) and noted question #10 which is worded as follows: "Is your location a permanent physical structure that has at least 750 square feet or is primarily dedicated to the business of selling vehicles{RSA 259:29-a III(b)}.

R. Tice stated that since the trailer is primarily dedicated to the business of selling vehicles they do not need to comply with the 750 square feet requirement.

R. Tice stated it is 750 square feet OR primarily dedicated to the business of selling vehicles not AND primarily dedicated the business of selling vehicles.

D. Gravel stated that the words permanent physical structure apply to the building used no matter if it meets the 750 square feet OR the primarily dedicated the business of selling vehicles requirement.

R. Tice stated that the State of NH inspector that came by indicated that there should not be a problem using the travel trailer.

D. Gravel asked if there are other people who want to speak in support of the application.

K. French stated that the limitation of having only 4 cars on the lot is in itself is a hardship given that there are hundreds of models of vehicles and in order to keep up changes have to be made.

B. Regan stated the limitation of 4 cars and no further signage was the response from the Board of Selectmen to concerns voiced via a petition submitted in 1988 by Thornton residents who were not in support of the auto sales business being located in the General Residential zone.

B. Regan stated his research showed that similar concerns regarding the business growing over time were discussed in 1988 which led to the restrictions.

B. Regan added that at some point after the 1988 discussion, the business moved across the street and continued to operate as a non-conforming use.

B. Regan stated it will be up to the Zoning Board of Adjustment to make a determination as to what qualifies as an expansion of use.

B. Regan stated he travels past the site every day and is aware that 1) the property does not have an E-911 address and 2) the travel trailer has been retrofitted to include new structures and it is clear that changes have been made to the trailer.

S. Bartlett asked if a variance is granted what would happen when a future owner of the property applied to put a permanent commercial structure on the property.

W. Rose stated that the granting of a variance would allow the commercial use of an auto sales lot on the property and that commercial buildings would go along with that.

J. Bartlett stated her opinion that it is important to support local businesses and that she supports Pope Auto Sales.

D. Gravel commented that the Zoning Board of Adjustment has certain restrictions regarding what they are permitted to do.

J. Marshall asked about the discussion that occurred last year regarding the use of the garage attached to the home.

R. Tice stated that the State of NH removed the square footage requirement by including the word "or" in the regulation so the garage space is not something they need to worry about.

W. Rose stated the Zoning Board of Adjustment minutes of November 19, 2014 and December 3, 2014 reflect the fact that the Board deferred on the entire issue of variance or no variance and just considered the documentation in hand as evidence that it hadn't been an issue for the town previously but considering the general lack of documentation the Board determined to steer clear of granting a variance last year.

W. Rose clarified that the present issue is not whether Pope Auto Sales can continue to operate as it currently operates in the Town of Thornton.

W. Rose stated the issue is whether or not Pope Auto Sales can obtain approval for their application for Retail Dealer License and Registration without changing or expanding from how it is currently operating.

W. Rose stated that the answer to that question is "no" according to what has been submitted at the meeting thus far.

R. Tice stated the State of NH denied the application only because the Town denied it.

W. Rose asked if it would be hypothetically true if the town had not denied the State of NH application then Pope Auto Sales would not have needed to request a variance.

D. Gravel asked what the state inspector indicated regarding the travel trailer meeting the state requirements.

R. Tice said the inspector indicated that the travel trailer would meet the requirement as long as it had a permanent heating system and it was the location they do business out of.

D. Gravel asked if anyone else wanted to speak.

D. Gravel noted that no one indicated they wanted to speak.

D. Gravel closed the public hearing and moved to the deliberation phase of the meeting at 7:43pm.

W. Rose began the deliberation by stating that the applicants seek a variance from Article V: Section B to allow a NH Retail Auto Dealer in the General Residence Zone.

W. Rose stated Auto Sales is not permitted in the General Residence Zone but is permitted in the Commercial and Industrial Zones.

W. Rose explained that there are five criteria than need to be met and a "yes" vote of three members is necessary to grant the variance.

W. Rose explained that each member will vote "yes" or "no" as to whether all five criteria are met.

J. Marshall stated that in her opinion the answer provided on "Addendum A" to the first question does not tell the whole story.

J. Marshall added that Pope Auto Sales is recognized as a non-conforming use in that zone and responding "no" to the question sends the wrong message to the State.

J. Marshall explained that it is understood that Pope Auto Sales is located in the General Residence Zone in which an auto sales business is not allowed.

D. Gravel read the response from the applicant to the first criterion into the record as follows:

1. *Granting the Variance would not be contrary to the public interest because there would be no change to the way business is now conducted.*

D. Gravel asked the applicant if the response "no change" is what he means.

R. Tice responded that the only change would be in the paperwork.

D. Gravel asked if there would be any change in the appearance of the dealership.

R. Tice responded there would be no change and specifically added that no signs or buildings would be added as they want to keep the overhead low.

J. Marshall stated her concern regarding potential changes in the future when the property is under new ownership.

D. Gravel stated restrictions can be added if the variance is granted.

W. Rose stated his understanding that the intent of the applicant is have "no change to the way business is now conducted" but that the Board has no clear understanding of what the State of NH requirements are.

R. Tice stated that if the State of NH does not accept Pope Auto Sales as it is then they are out of business.

D. Day asked if the State of NH requires a 750 sq. ft. permanent structure would the applicants need to return to obtain approval for that change to the business.

W. Rose stated that the intent is that if the variance is granted it would mean the applicant is allowed to meet the State of NH requirements to operate as a Retail Dealer.

W. Rose added that is why knowing the State of NH requirements is important.

D. Gravel read the response from the applicant to the second criterion into the record as follows:

2. *If the Variance were granted, the spirit of the Zoning Ordinance would be observed because there would be no changes to ownership or expansion.*

D. Gravel explained that this includes a long list of spirit items that incorporate the purpose of why the Zoning Ordinance was adopted in the first place.

D. Gravel stated his opinion that if there is no change to how the business is operating he agrees granting the variance would be within the spirit of the Zoning Ordinance.

W. Rose stated his opinion that granting the variance would not be in the spirit of the Zoning Ordinance because the Auto Sales use has been identified by the voters as being allowed in the Industrial and Commercial zones and not in the General Residence zone.

J. Marshall stated that in her opinion when the Zoning Ordinance was first adopted it was very much in the spirit of the town to allow businesses that were in existence to continue.

W. Rose stated that the enabling legislation provides for the continuance of existing business without making them illegal and added that at the same time the non-conformity clause allows for the existing business to continue as is without increase or expansion of the non-conformity.

W. Rose stated that is the issue at hand.

D. Gravel and J. Marshall agreed.

D. Gravel read the response from the applicant to the third criterion into the record as follows:

3. Granting the Variance would do substantial justice because it would allow a family to help support itself and local community.

J. Marshall stated her opinion that the justice would be allowing a business which has been in operation a long time to continue and that in her opinion it is unjust that due to State of NH bureaucracy the applicant is forced to go through this process.

D. Gravel read the response from the applicant to the fourth criterion into the record as follows:

4. If the Variance were granted, the values of the surrounding properties would not be diminished because the business has been around since before 1970 and has not had a negative impact.

W. Rose stated his opinion that it is questionable as to whether the existence of the business since 1970 proves or disproves the values of the surrounding properties would not be diminished.

D. Gravel noted that there is no negative input from abutters submitted which is something he considers when looking at the answer to this criterion.

D. Gravel read the response from the applicant to the first part of the fifth criterion into the record as follows:

5. A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the Variance would result in unnecessary hardship because:

- 1. No fair and substantial relationship exists between the general public purposes of the Zoning Ordinance provision and the specific application of the provision to the property because Ed Pope Auto Sales has been operating since before zoning was in existence with no negative effects and*
- 2. The proposed use is a reasonable one because it helps keep a small business in business.*

D. Gravel explained that the term "special conditions" refers to a unique factor in the land -something different from the neighboring properties.

D. Gravel explained the question is asking if there is a defined connection between the spirit of the Zoning Ordinance and the operation of Pope Auto Sales.

D. Gravel noted the applicant's response to the question is "Ed Pope Auto Sales has been operating since before zoning was in existence with no negative effects" which is essentially the same answer given for every question.

D. Gravel read the response from the applicant to the second part of the fifth criterion into the record as follows

5. B. If the criteria in 5. A. are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it because if we do not get a variance we will be forced out of business.

D. Gravel stated that in order to grant a variance to operate a commercial business in the General Residence Zone the Board has to look at whether there is any other way the property can be used to generate income or put to use other than the way it is being used as Pope Auto Sales with less negative impact.

R. Tice stated he did not think the property is large enough to build on.

W. Rose stated the parcel has 1.0 acres and is a buildable lot.

W. Rose stated usually the "due to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used" refer to something like trying to comply with a setback requirement of 100ft and there is a cliff 50ft. from the property line which would require a variance to build within the 100ft setback.

W. Rose stated granting a variance for a use is more difficult.

W. Rose noted that at no point since the Zoning Ordinance was adopted has any attempt been made to provide for allowing Auto Sales within the General Residence zone.

W. Rose stated that in his opinion that indicates that allowing commercial use in the General Residence zone is not the intention of the voters.

D. Day stated he recollected that at one time there was an effort to put NH Rt 175 properties in the Commercial Zone.

D. Gravel asked the Planning Director if there is anything in the works regarding allowing commercial use in the area that Pope Auto Sales is located.

B. Regan responded that there is nothing presently pending that would allow commercial use in that area.

W. Rose stated that the Board can consider adding limitations to a variance if granted such as limiting it to the only current owners.

D. Day stated that limitation could potentially have a negative impact when they try to sell the property.

D. Gravel stated that restrictions could be added to address the term, expansion, number of cars, signs and other items to ensure the business stays as it currently exists.

W. Rose stated procedurally the Board will need to determine if all five criteria are met.

W. Rose added that the question is whether all five criteria met and that if the answer to any one of the criteria is "no" then the vote would be "no".

J. Marshall stated that the fact that a non-conforming use exists can be considered a "special condition of the property" as referred to in the fifth criterion.

D. Gravel noted that was an interesting way to look at it.

D. Gravel polled the Board regarding whether the five criteria are met.

D. Day and J. Marshall indicated they consider the five criteria are met.

W. Rose indicated he considers the five criteria are not met.

D. Gravel indicated he considers the five criteria are met.

D. Gravel asked what type, if any, restrictions the Board want to include with the variance if granted.
J. Marshall stated the intent is that the business stays the same and no changes or expansion occurs.
J. Marshall stated consideration should be given to stipulating that no building be allowed on the parcel.
W. Rose stated he is not sure that would work for the applicant as he is not clear on what the State of NH will require to approve the application for Retail Dealer License and Registration.

D. Gravel asked R. Tice if it is true that Pope Auto Sales can obtain approval on the application for Retail Dealer License and Registration as it exists.

R. Tice stated he has been led to believe that by the State of NH inspector he interacted with.

D. Gravel stated that not knowing what the State of NH will require to approve the application for Retail Dealer License and Registration puts the Board in a hard position.

W. Rose stated that there was discussion last year regarding the use of the garage that is attached to the residence as part of the business.

R. Tice stated that the garage is located on a separate parcel of land.

W. Rose noted the State of NH requirements state that there be a single business location and asked where the single business location will be.

R. Tice stated the car lot at (Map 16 Lot 7-62) will be the business location and added that the garage was being considered last year when they thought they needed to meet the 750 sq. ft. requirement but when the State of NH added the word "or" to the requirement it was no longer a concern.

W. Rose asked if he could make a suggestion.

The Board members agreed to allow him to make the suggestion.

W. Rose suggested the hearing be continued to allow the applicant to submit the following:

1. a proposed site plan, and
2. clarification regarding the State of NH expectations for retail dealers.

W. Rose clarified to the applicant that this means they will need to do the following:

1. get the draft minutes,
2. get a written understanding of what the State of NH will require at the Pope Auto Sales site once the application for Retail Dealer License and Registration is approved,
3. develop a site plan based on the State of NH requirements, and
4. bring both the written response from NH DMV and the proposed site plan to the next public hearing

D. Gravel stated a site plan would provide the necessary information to show how Pope Auto Sales would be able to meet the requirements to obtain State of NH approval on the application for Retail Dealer License and Registration while continuing the existing non-conforming use without changing or expanding.

The Board discussed possible meeting dates.

W. Rose suggested that the upcoming holiday will impact how soon the applicant will be able to provide the information.

R. Tice stated the current bonded dealer license he holds expires on December 31, 2015 but that he would operate in the meantime as a private citizen.

W. Rose suggested the applicant could ask for something in writing from the State of NH Department of Safety Division of Motor Vehicles or for someone from said agency to attend the meeting to speak regarding the requirements associated with obtaining approval for Retail Dealer License and Registration.

MOTION: "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 a NH Retail Auto Dealer in the General Residence Zone on property identified as Tax Map 16 Lot 7-62 located on NH Rt. 175 to January 5, 2016 at 7:00pm at the Thornton town office."

Motion: W. Rose

Seconded: D. Day

Discussion: None

Motion Passes: 4 – Yes, 0 – No

ADJOURNMENT:

The following motion was made at 8:30pm:

MOTION: "To adjourn."

Motion: D. Day

Seconded: J. Marshall

Discussion: None

Motion Passes: 4 – Yes, 0 – No

Respectively Submitted,
Nancy Decoteau

State of New Hampshire



JOHN J. BARTHELMES
COMMISSIONER OF SAFETY

DEPARTMENT OF SAFETY
DIVISION OF MOTOR VEHICLES
23 HAZEN DRIVE, CONCORD, NH 03305
TDD Access Relay NH 1-800-735-2964

ELIZABETH BIELECKI
DIRECTOR OF MOTOR VEHICLES

November 23, 2015

Elvira Pope
Ed Pope Auto Sales
28 Pope Drive
Thornton NH 03285

Dear Mr. Pope:

This letter is in regards to your Application for Retail Dealer License and Registration, located at Route 175, Thornton, NH. The Division of Motor Vehicles has denied your application at this time due to the Town of Thornton's denial. For further information on the denial from the Town of Thornton you may contact Brian Regan, Planning Director for the Town of Thornton at 603-726-8168. Enclosed are your Criminal Background Information, original Bond Rider and Certificate of Good Standing.

Please expect to receive a refund once it has been processed by the business office, which will be in the amount of 75% of the license fee you originally submitted, per RSA 261:103-a II.

Thank you for your application. You may reapply as new at a later date. If you have any questions please do not hesitate to contact the Dealer/Inspection Desk at 603-227-4120.

Sincerely,

A handwritten signature in cursive script, appearing to read "Elizabeth Bielecki".

Elizabeth Bielecki

presented at 12/15/15 by R. Tice ①

State of New Hampshire



RICHARD M. FLYNN
COMMISSIONER OF SAFETY

DEPARTMENT OF SAFETY
DIVISION OF MOTOR VEHICLES
JAMES H. HAYES SAFETY BUILDING
10 HAZEN DRIVE, CONCORD, N.H. 03305
TDD Access: Relay NH 1-800-735-2964

VIRGINIA C. BEECHER
DIRECTOR OF MOTOR VEHICLES

February 28, 1997

Irma M. Gross
Route 3
W. Thornton, NH 03223

Dear Madam or Sir:

New Hampshire RSA 541-A:39, (1) requires that this agency advise your office of any action which may have an effect on land use, land development, or transportation; those that would result in the operation of a business; or those which would have an immediate fiscal impact on the community or require the provision of additional municipal service.

Having received an application from the person named on the reverse side of this letter, we have initiated our investigation to determine whether or not the applicant meets appointment qualifications.

Please refer this letter to the appropriate individual or Board within your municipality so we may receive your Town's or City's position on this matter.

In order to process the application in a timely fashion, your response is necessary within 10 days of the date of this letter. However, should we receive a request for non-approval later than that we will move to protect your community's interests.

If you require further explanation as to the type of application under consideration, please feel free to call:

Dealer Desk 271-2330
Inspection Desk 271-2321

Thank you for your attention to this matter.

Sincerely,

Handwritten signature of Laurene J. McLeod in cursive.

Laurene J. McLeod
Dealer Desk Supervisor

presented 12/15/15 R. Tice
1 of 2 (2)

OWNER'S NAME	Edward Pope, Elvira Pope	
	First	Last
BUSINESS NAME	Ed Pope	
LEGAL ADDRESS	Page Road, Thornton 03223	
MAILING ADDRESS	RFD #1, Box 140 Campton	PHONE NUMBER 726-3352

TYPE OF PERMIT OR LICENSE UNDER CONSIDERATION

INSPECTION STATION	<input type="checkbox"/> AUTO	<input type="checkbox"/> MOTORCYCLE	<input type="checkbox"/> MUNICIPAL
	<input type="checkbox"/> GLASS REPLACEMENT	<input type="checkbox"/> EMISSIONS	<input type="checkbox"/> FLEET
		<input type="checkbox"/> HEAVY COMMERCIAL	
DEALER	<input type="checkbox"/> NEW/USED	<input type="checkbox"/> MOTORCYCLE	<input type="checkbox"/> REPAIR
	<input type="checkbox"/> UTILITY	<input type="checkbox"/> TRANSPORTER	<input type="checkbox"/> MOPED
	<input checked="" type="checkbox"/> BONDED (no dealer plate privileges)	<input type="checkbox"/> WHOLESALE	<input type="checkbox"/> JUNK

The applicant whose name appears in the above section:

- * Complies with local ordinances or requirements or has a variance to operate. YES NO
- * Application effects land use, land development or transportation. YES NO
- * Application affects fiscal costs, municipal services. YES NO

It is recommended that the Division of Motor Vehicles;

- Defer action pending further investigation.
- Deny the applicant's appointment.
- Approve the appointment if otherwise qualified.

COMMENTS: _____

Ed Pope Signature Mar 3, 1997 Date

Town Clerk Title

Thornton City/Town 726-3352 Phone No.



John J. Barthelmes
Commissioner of Safety
Richard C. Bailey, Jr.
Director of Motor Vehicles

STATE OF NEW HAMPSHIRE
NH DEPARTMENT OF SAFETY
Division Of Motor Vehicles
23 Hazen Drive, Concord, NH 03305
603- 227-4120

- NEW
- RENEWAL
- LOCATION CHANGE
- NAME CHANGE
- DEALER #: 2238

APPLICATION FOR RETAIL DEALER LICENSE AND REGISTRATION
RSA 261:103 & RSA 261:103-a

DEALER TYPE: NEW and/or USED MOTORCYCLE WHOLESALE BONDED ONLY
 BUSINESS IS: CORPORATION PARTNERSHIP SOLE PROPRIETOR SS/FED ID #: _____
 CORPORATE NAME: _____

TRADE NAME: Ed Pope Auto Sales
 BUSINESS MAILING ADDRESS: 28 Pope Dr Thornton 03285
Street / RFD / P.O. Box Town / City Zip Code
 BUSINESS LOCATION: Rt. 175 Thornton 03285
Street / RFD Town / City Zip Code
 BUSINESS TELEPHONE NUMBER: 726-3352/236-2512 FAX NO: _____
 BUSINESS EMAIL (optional): _____

BUSINESS HOURS (indicate days and hours pursuant to RSA 261:103 and SAF-C 2001:15):
 Monday: 4 PM - 9 PM Tuesday: 4 PM - 9 PM Wednesday: 4 PM - 9 PM
 Thursday: 4 PM - 9 PM Friday: 4 PM - 9 PM Saturday: 12 PM - 6 PM Sunday: 9 AM - 5 PM

OWNERS / PARTNERS / AND IF A CORPORATION, IN ADDITION, ALL OFFICERS:

Name	Home Address	Date of Birth	Title	Home Phone #
<u>Elvira Pope</u>	<u>28 Pope Dr, Thornton, NH</u>	<u>02/17/1967</u>	<u>owner</u>	<u>726-3352</u>

1. If a new applicant, have you attached a criminal background check for each Owner/Partner/Officer? YES NO If NO, explain the reason. Changing From a Bonded Dealer to Retail Dealer
2. Is your business name registered with the Secretary of State's Office? YES NO (If YES, please attach a copy)
3. Is the required Dealer's Bond on file with the Division of Motor Vehicles (RSA 261:98)? YES NO If YES, please list the name of the insurance company. National Grange Mutual
4. Are you principally engaged in the motor vehicle business? YES NO
5. If you are a Wholesale Dealer Applicant, are you exclusively engaged in selling to Dealers only? YES NO
6. Are you a dealer in Motorcycles? YES NO
7. Do you own or lease the premises? OWN LEASE If leased, a copy of the current lease must be provided.
8. Do you hold a manufacturer's franchise or contract? YES NO If YES, please provide the name of the Manufacturer.
9. Do you furnish an inspection service? YES Station # _____ NO If NO, please attach a Service Agreement
10. Is your location a permanent physical structure that has at least 750 square feet ^(or) is primarily dedicated to the business of selling vehicles (RSA 259:29-a III (b)) YES NO
11. What are the interior dimensions of your building? 43 feet by 25 feet.
12. Do you intend to sell motor vehicles? YES NO If YES, please check one: NEW USED BOTH
13. Is your business name clearly and conspicuously displayed on a business sign in letters no less than 10 inches in height and clearly visible from a traveling vehicle on the adjacent public way? (RSA 259:29-a (c)) YES NO
 If NO, explain the reason _____

R. Tice presented 12/15/15 (3) 1012

14. Do you agree to comply with all state and federal requirements regarding selling, titling and financing of vehicles? YES NO
15. Have you or your business ever been convicted of a crime that has not been annulled by a court or your business ever been subject to a civil judgment connected with a motor vehicle business? YES NO If YES, please attach an explanation.

LIST PERSONS AUTHORIZED TO PURCHASE 20-DAY TEMPORARY PLATES ON BEHALF OF YOUR BUSINESS:

Person's Name (please print):	Person's Signature:
<u>Elvira Pope</u>	<u>Elvira Pope</u>
<u>Robert Tice</u>	<u>Robert Tice</u>
<u>Moselle Pope</u>	<u>Moselle Pope</u>

FOR RENEWAL ONLY:

- A. Has there been any change in ownership or location of this business which has not been previously reported in writing to the Director? YES NO
- B. Please conduct a physical inventory of all plates issued to your business and list them by letter and location/assignment, in alphabetical order (attached additional sheet if necessary): _____

<u>RENEWAL PLATE FEES:</u>		<u>MOTORCYCLE RENEWAL PLATE FEES:</u>		<u>LICENSE FEE:</u>
First Plate:	\$200.00	First Plate:	\$12.00	\$125.00
Each Additional Plate:	\$12.00	Each Additional Plate:	\$3.00	

APPLICANT'S CERTIFICATION

In consideration of our application for a vehicle dealer license, I, on behalf of the owners, partners and officers listed as part of this application, do hereby agree to be familiar with, and abide by all applicable statutes and dealer rules, to be principally engaged in the motor vehicle business who sells motor vehicles to the general public, or demonstrates for sale vehicles on consignment to the general public. I also certify that the location and operation of my business does not violate any existing local ordinance or regulations, and agree to notify the Director of the Division of Motor Vehicles in writing of any change of address or business status, including ownership, 30 days prior to the effective date of such change.

I further understand that a violation of any of the rules and regulations issued by the Director, Division of Motor Vehicles, will be deemed sufficient cause for an administrative hearing and penalties may be imposed.

OWNER'S NAME: Elvira Pope TITLE: owner

HOME RESIDENCE ADDRESS: 28 Pope Dr, Thornton, NH

HOME PHONE NUMBER: 726-3352 OWNER'S DATE OF BIRTH: 02/17/1967

OWNER'S SIGNATURE: _____ DATE: 11/23/2014

This application is signed and any additional information is offered under the penalty of unsworn falsification pursuant to RSA 641:3.

MOTOR VEHICLE USE ONLY

Date Received: _____	Received By: _____
Date Reviewed: _____	Reviewed By: _____
Date Processed: _____	Processed By: _____

Additional Comments: _____

R. Tice presented 12/15/15 (3) 2 of 2

TOWN OF THORNTON
Zoning Board of Adjustment

AGENDA
Tuesday, December 15, 2015
7:00PM

CALL TO ORDER:

ROLL CALL: David Gravel, Chairman William Rose, Vice Chairman Dennis Day, Member
Joan Marshall, Member Chris Hodges, Member

APPROVAL OF MINUTES: None presented (*Nov 17 2015 minutes approved at last meeting*)

PUBLIC HEARING:
None scheduled

NEW BUSINESS:

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 a NH Retail Auto Dealer in the General Residence Zone on property identified as Tax Map 16 Lot 7-62 located on NH Rt. 175.

COMMUNICATIONS AND MISCELLANEOUS:

OTHER BUSINESS:

1. Review/approve minutes of the meeting (Nov 17, 2015)

ADJOURNMENT:

Zoning Board of Adjustment

December 15, 2015

SIGN IN SHEET (Please Print)

1	Wallace Dittus	25
2	KEVIN FRENCH	26
3	Arthur J. Gross	27
4	Geraldine H. Benton	28
5	Robert Tice	29
6	ELVIRA POPE	30
7	Moselle Pope	31
8	Michael Pope	32
9	BRIAN REGAN, PLANNING DIR TOWN of HORTON	33
10	Jessica Bartlett	34
11	Steph Bartlett	35
12	Bret Dubond	36
13		37
14		38
15		39
16		40
17		41
18		42
19		43
20		44
21		45
22		46
23		47
24		48