

**TOWN OF DERRY**  
**ZONING BOARD OF ADJUSTMENT MINUTES**  
**July 19, 2018**

**Members Present**

Lynn Perkins, Chairman  
Heather Evans, Vice Chairman  
Stephen Coppolo, Secretary  
Randall Kelley @ 7:09 pm  
Michelle Navarro

**Members Absent**

**Alternates Present**

Donald Burgess  
Evan Rathburn  
Crystal Morin  
Craig Corbett

**Alternates Absent**

**Code Enforcement**

Robert Wentworth

Mr. Perkins called the meeting to order at 7:00 p.m. with the salute to the flag and informed public of fire and handicap exits. He noted that this and all Zoning Board meetings are videotaped.

The Board introduced themselves for the record.

Mr. Perkins noted for the record that the following case was a continuation from June 21, 2018 and will proceed from the rebuttal forum as that was where the previous meeting ended.

**18-117          Roberta Robie**

**Appeal of An Administrative Decision of the Code Enforcement Director that the business located on the property (Triangle Portable Services, Inc.) has not expanded and is in compliance with the conditions of the variance granted in 1984 for its operation at 29 Chester Road, PID 44012, Zoned MDR**

Roberta Robie, Chester Road. Mrs. Robie said that in 1984 there were several vehicles at the property at that time and it is noted in the meeting minutes. She said during the 1984 meeting the applicant indicated 3 trucks and it is noted in the minutes from that meeting.

Mr. Perkins said that Mrs. Robie's challenge is that there are now 6 tanker trucks on the property. He said that the question established is that Triangle has increased in their vehicles not an increase in portables.

Mrs. Robie asked if the rebuttal is to oppose what was stated at the prior meeting. Mr. Perkins said yes.

Mrs. Robie said that during the previous meeting the minutes do not reflect all the required testimony that she provided and would like them amended to show continuity and clarity. She feels that there were many omissions made and does not include many oppositions as the Chairman and the Attorney both refer to the 1983 and 1984 minutes and feel that rebuttal is designed to show continuity and clarity so must include the comments and statements made by both myself and the opposition. She stated that if these amendments were not made that it would be gross tampering with evidence. Mrs. Robie said that she also is requesting that the videos of June 21, 2018 and this meeting and transcriptions be impounded.

### **Board Questions**

Mr. Perkins said that the minutes are designed to paint path and done that way in the event of a challenge at a later point. He said that a copy could be requested of both video and minutes from the appropriate departments.

Mr. Coppolo said that in the past at his day job there have been cases that they have sent copies of the videos to transcriptionist to have them transcribed verbatim is an option for you. Mrs. Robie said that she was not looking for verbatim just to have points addressed that are incorrect as they are not addressed.

Mr. Perkins asked if the minutes were being challenged. Mrs. Robie said that the minutes of June 21, 2018 meeting and tonight's meeting would not know what talking about if read as they do not state the points. Unable to have a rebuttal if the information is not there.

Mr. Coppolo said it sounds like the applicants question of minutes and Mrs. Robie's presentation tonight. Mrs. Robie said that they are lopsided because the points are not in minutes and need to be provided to have continuity.

Mrs. Robie said that as the Chair pointed out the tankers are mobile; 200 portables are allowed and as Mr. Kelley pointed out only 57 were on the property at the time of the last meeting. She said that the toilet numbers change daily so therefore the toilets are mobile also. However, all the tankers/trailers are all on the property daily. 1983 & 1984 minutes have discussion of Foley's/Chase's focus was regarding the portable toilets and was not focused on the trucks. It is stated however that at that time there were 3 tankers and 3 pickup trucks and consensus was taken in good faith and no opposition was given to the number of vehicles, so the only amendment was for the storage of 200 portables toilets. She said that if there was a concern then there would have been an amendment, but the business request was for the storage area only for the portable toilets.

Mrs. Robie said that during the June 21, 2018 meeting Attorney Hollis referred to case law which is irrelevant to this case as each case is based on its own merit. During that meeting Carol Chase told the Board that that tank trucks are all 700 gallons and capacity of each are 700 gallons. Mrs. Robie said that this was untrue as she has evidence that the 2002 freight liner accident was transferred to a 2006 tanker.

Mrs. Robie provided the Board with pictures and printouts as evidence of changes in the size of the tankers.

Mrs. Evans asked if the 700 gallon capacity tanker was changed to a 1600 gallon tanker. Mrs. Robie said that it was changed to a 1006 gallon tanker and they stated always transfer to new trucks.

Mrs. Robie said that the 2016 tank Peterbilt is 4000 gallons and not a 700 gallon tanker. She said that is a whopping 4100 gallon expansion and the minutes do not reflect correct size of trucks and that the Board was not told the correct information with regard to the size of the tankers that are currently on the property.

Mrs. Robie said the next point she would like to address is that it was stated that there were only 2 dump sites one being in Lawrence and the other in Pembroke which was 27 miles away. She provided the Board with printouts of various dumping sites for the record listing Lawrence and Pembroke services.

Mr. Coppolo asked how was this information was obtained. Mrs. Robie said that she purchased copies from the State of the permits and licenses. She said that it was stated only 2 sites were available and she has provided the Board with evidence that there are several sites in which they are allowed to dump other than Lawrence or Pembroke.

Mr. Perkins said that prior testimony was given that first started with several sites and now down to two sites that allow dumping.

Mr. Burgess said that he was not present during the last meeting but has watched the video. He said that it was stated that several sites which also included Derry that accepts waste but now only have 2 sites. Mrs. Robie said that she has provided the Board with printouts of dumping sites. She said that the Board was told that there were no records of the 2 sites. She said that she has provided the Board with tracking records from Manchester Waste Water that Triangle has been allowed to dump there. The list shows all vendors and gallons dumped and Triangle is listed at the bottom. She said that each tanker has to fill out a slip with date, license and number of gallons dumping. Mrs. Robie said that each facility must keep printout per month and every tanker has to fill out slip. New Hampshire state law states don't dump without record.

Mrs. Robie said that testimony provided said 6 tankers but there may be 7 as on May 2, 2018 Mark Chase informed the State that he plans to acquire a 1000 gallon Peterbilt. She said that the opposition never told the Board that a truck was on order and insisted on no expansion. Mrs. Robie said that they stated that they do not want to get bigger but have a

7<sup>th</sup> tanker on order. She said that she has debunked opposition statements with facts. Mrs. Robie said that also the bullying by Attorney Hollis may need to be added into the minutes, so it never happens to another person as it was offensive and degrading. She said that there was also no mention of pickups, flatbeds or any other vehicles noted during the testimony. She said that she has provided the Board with proof of the increase in tanker trucks, proof of dumping sites and proof of gallons dumped which she believes is evidence of expansion.

There was some discussion with regard to the original start date of the business and when it came before the Board for original variance.

Mr. Rathburn asked if the information of waste gallons of the trucks was what they could handle from the State or what handle per truck. Mrs. Robie said that she can only testify what was provided from the State of what each truck and hold.

Mr. Corbett asked if there was confirmation that the 7<sup>th</sup> truck was confirmed to be added. Mrs. Robie said that during the meeting of June 21<sup>st</sup> there is a letter from Carol Chase does not state the number of tankers. She said Attorney Hollis said not disputing the number of tankers. Mrs. Robie said that there are plans of getting a 7<sup>th</sup> tanker and it is not stated as being an expansion. She said that she feels that this is a huge expansion from 1984.

Mr. Coppolo said that if the Board finds to uphold Mr. Mackey's decision of not an expansion what solution is being sought. Mrs. Robie said she is looking for the variance to be upheld as that the 1984 variance speaks of discussion was to store 200 toilets and variance says encompasses whole thing, but the only amendment made was to allow 200 toilets. If the trucks had also been a concern by the Chases/Foley's it would have also been made as an amendment.

Mr. Coppolo said if have to go back to 3 trucks and found in favor they could come back and request a new variance. Mrs. Robie said that there was so much misinformation provided. She said that Attorney Hollis brought up in the prior meeting about her husband having also applied to operate a tire business. She said that they had requested a small tire changing business to be located in one stall of a 2 car garage which was no change in the residential character of the neighborhood. She said that Triangle business is offensive to the neighborhood. The plantings to hide the business hide nothing. They wash and clean the trucks in the yard. She said that she can hear the trucks pumping at all different times. She said that she feels that this is an expansion and is offensive and changes the residential character of the neighborhood.

Mr. Perkins said that things in the past does not take precedence of what happened 30 years ago and want to know what is the proper remedy be if this was decided in your favor. Mrs. Robie said that she came in with appeal as spoke with code Enforcement and said this was an expansion, six months still sitting on his desk and then they were sent a notice and received a letter back from Carol Chase and that letter never stated had 6 trucks. She said that she feels that they know that the variance says the business and know this is an expansion. Mrs. Robie said that there is more volume daily as one truck is 4000 gallons.

Mr. Perkins said that everything is a process and speaks to the time as everything is a 30 day process. In this present time, what remedy is being asked from the Board. Mrs. Robie said that her remedy is that they were given a variance for 3 tankers and 3 trucks nothing more.

Mr. Perkins said so ruling should be 3 tankers and 3 trucks. Mrs. Robie said yes, 3 – 700 gallon trucks nothing more as they told you all their trucks were 700 gallons.

Mr. Perkins said that the Board has been introduced to new thoughts and will be giving Attorney Hollis a chance to rebut this new evidence.

Mrs. Robie said that she has another piece of new information for the Board is that Derry does take septage from Triangle and records are also kept there.

Attorney Morgan Hollis, Gottesman & Hollis, P.A, said he was representing Triangle Portable Services. Attorney Hollis said that at the previous meeting he came out a little hot and apologize for that as tried to make a point and feel everyone has had opportunity of credibility. He said that his clients could address some of the allegations better than himself and would like that opportunity. Attorney Hollis said he felt that this all started that the increase of tankers being 3 and one being inactive to 4 active and 2 not active not trucks in 2018 being evidence of an expansion. He said that it could be a reasonable indication of an expansion and Mr. Mackey reviewed evidence of the trucks not being and expansion and testimony from Mrs. Robie saying the increase in the number of trucks being an expansion. He said that the ZBA needs to decide if there has been and expansion of the business. Attorney said that they have not denied the number of tankers has increased but does not indicate that the business has increased. The question of flowage was a reasonable question was told that they do not have records from 1984 and providing the records of 2018 would provide no purpose as no way to compare proof of change. The issue of where dumped told primarily Lawrence and Pembroke and his clients can explain and rebut to that part of Mrs. Robie's testimony of Manchester and Derry's acceptance of waste. Attorney Hollis said that the following has been submitted as evidence of no change:

1. Submitted evidence that nature of business has not changed as has been and still is a portable toilet business.
2. Put in evidence that the number of employees have not changed.
3. Put in evidence the number of toilets have not changed that they are currently less than 1984.
4. Put in testimony that the building has not changed and that the office is in the same place.
5. Put in testimony that no site improvements have been made.
6. Put in evidence that the scope of vehicles have changed from trucks with trailers to flatbed trucks. Does 6 tanks increase of change and an expansion of business that is for the Board to decide.
7. Put in testimony from neighbor that there has been no change. No evidence of impact from neighbor who is across the street.

Attorney Hollis said that he asked his clients if they had any other information and that they do have tonight a map of Triangles customer ask to the number served that they did not have at the prior meeting. He said it shows that it shows their customer base has changed to where they used to travel and the customer base from before to today. He said that they do not deny that the increase of trucks has been made but the Board needs to weigh if the evidence provided shows an expansion in business but arguable that the business has actually shrunk. Attorney Hollis said that his clients don't do things like they used to as they no longer do fairs changed business model. Toilets are different today than 1983 and demands of people are quite different than today that is not an expansion in business but evolved to what is needed to meet today's needs.

Attorney Hollis said that he apologizes to Mrs. Robie as did not mean to appear to be bullying but perceive to provide a base line that there is a lot of history here but simply trying to answer a question but came off the wrong way.

Attorney Hollis said that he has not reviewed the tape from the meeting so Mrs. Chase will need to speak to the available dumping sites. He said that Derry allows Derry toilets not other towns. In terms of a new tanker being added they do have one order to replace one as that happens over time. There are trucks there that have over 5,000 miles on them. The ultimate question of finding of expansion is not there and feel have clearly demonstrated that. Attorney Hollis said that yes, they have added more trucks but that is not evidence of expansion. He said that he is unable to speak to the minutes from 1984 not speaking to the number of vehicles as it is not there.

Mark Chase, son of Carol Chase. Mr. Chase said that their Attorney covered most of the points. In 1984 had 4 trucks used to dump more than 1 time per day and sometimes several times a day and worked long hours. He said that today they have less units and never had a spare truck if one broke down and that the nature of the business has changed and if in the event that if one breaks down they are able to keep operating and it is also for public health concerns as need to service in a timely manner. He said that they still only run 4 trucks daily and in the winter sometimes only 3. Mr. Chase said that with regard to a 7<sup>th</sup> tank truck coming will be replacing an old 1995 truck with 600 hundred and 50 thousand miles on it. They still park in the same place and toilets are in the same place as have a small lot. Mr. Chase said that the case is being based on the number of trucks being an expansion is that they try to make less trips to dump sites due to the distance and cost in fuel. Mr. Chase said that they have less portable toilets on the site and less rentals on site that was in 1984.

Mr. Kelley asked if they are allowed to dump in Manchester and why. Mr. Chase said that they occasionally dump in Manchester but mainly dump in Lawrence and Pembroke. He said that Manchester only takes certain Town's septage as to where larger dump sites take all septage for different rates.

Mr. Kelley asked if they do have accessibility to go to Manchester but its based on cost and convenience. Mr. Chase said yes but only certain sites are taken by Manchester. Pembroke and Lawrence takes larger amount of towns and have an in district and out of district rate and primarily take to those sites. He said that they do go to other sites but they do what is most efficient and that Town limits what it takes.

Mr. Perkins asked if there were various sites to dump. Mr. Chase said that they do some weekends if it's baseball season, etc. He said that the number of toilets on site have changed since the 60's and in 1964 it was all toilets. Mr. Chase said that there are pictures in the 1960's showing the same parking and toilets in the same place. He said that Mrs. Robie is not a direct abutter and has always been in opposition to the business. He said that the business condition was limited to 200 portable toilets and does not have a limit to the number of vehicles.

Mr. Coppolo asked if this was the only property operating from. Mr. Chase said yes.

Mr. Burgess asked if the 4000 gallon truck was on the road daily. Mr. Chase said no. He said that they dump into this truck and make less trips to Lawrence or Pembroke for efficiency.

Mr. Burgess said that the Manchester site only allows septage from certain towns and unable to take septage from Derry or Chester there. Mr. Chase said yes that they are limited to what Town's accept where.

Mr. Perkins asked if the new truck was 1000 gallons. Mr. Chase said yes that it was replacing a 1000 gallon truck.

Mr. Perkins asked if the Manchester site takes and if it was raw septage or from portables. Mr. Chase said that Manchester does have a septic treatment facility and takes raw sewage and portables that has been there for decades but limits where septage comes from.

Mr. Perkins said that he was trying to establish primary sites that take septage and that gallons minimal compared to other companies. Mr. Chase said that a 700 gallon truck would still be a 1400 gallon truck as it would be performing more dumps and that business is doing the same type of business that they have done since the 1960's.

Mr. Perkins said that Mrs. Robie has the opportunity to speak in closing arguments and no other testimony will be taken.

Mrs. Robie said that the map provided was not in the master file and was created now. Mr. Perkins said the map shows prior area has diminished since 1980's and that the area in yellow is what they service now and pink was what it used to be.

Mrs. Robie said that it was difficult to hear so difficult to rebut. Mr. Perkins reviewed some of the comments that have been heard step by step.

Mr. Perkins said that there were 3 and 1 tankers in 1984ish as compared to 4 and 2 now. And reference was 3 and 1 as Attorney Hollis has expressed that they had 3 and 1 in 1984. Mrs. Robie said that minutes clearly indicated that Clarence state 3 tankers and 1 not used since the 70's.

Mr. Perkins said that he recalls that Mr. Learnard stated at the last hearing saying 6 trucks. Mrs. Robie said yes that there was 3 tankers and 3 pickups.

Mr. Perkins said that Attorney Hollis has addressed the comments on the flowage being that they were not calculated in the 1980's but are now and as laws have changed. Mrs. Robie said that the variance was for portable toilets not the amount of septage. She said that is clearly an expansion. The minutes state that they had 3 trucks of 700 gallons in 1984 and now have an expansion of 4000 gallons is an obvious expansion. Mrs. Robie said multiply 3 times 700 is 2100 gallons. Mrs. Robie said one additional truck alone is 4000 gallons so have to be doing more so feel expansion of business.

Mr. Perkins said that it was stated that truck takes waste from the smaller trucks that they are transferring on site to larger truck.

Mrs. Robie asked if it is being said that they are transferring 700 gallon trucks to the larger one. Mr. Perkins said yes.

Mrs. Robie said that she has an advertisement of Triangle Chemical stating that their goals are to expand business and that Triangle has now expanded. That is their advertisement and it is on the internet.

Mr. Kelley said that they are allowed by case law to expand within the capacity of the land that they sit on. Mrs. Robie said that they are not allowed to expand on non-conforming uses.

Mr. Perkins said the document referring to document referring to expansion. Mrs. Robie said that she has the original but do not have copies. She said that she went to the library and looked it up.

Mrs. Evans asked what the advertisement referred to expansion or portables. Mrs. Robie read the advertisement for the record saying that the business has expanded its services to include septic tank cleaning, installation of risers, baffles and filters.

Mr. Perkins said that he reviewed and compared hauler documents provided and indicates load. Mrs. Robie said yes that when a tanker comes in they have to sign slips and documented amount of gallons dropped off.

Mr. Perkins said that the 4000 gallon truck not deliver to Manchester. Mrs. Robie said that a 1000 gallon truck would. She said that they also dump in Derry but only small loads. She read for the record some of the loads that were dumped in December of 2017 showing large dumping numbers that were dumped in Derry.

Mrs. Robie said that the Board was told by their Attorney that they never said tankers are such and such but it was on video as have watched the tape as it plays three times a day. She said that the point is capacity is an indication but however if you go in relation to 700 gallons to 1000 gallon and an 1100 and a 1600 and a 4000 isn't it common sense that way out pass 3 tankers of 700 gallons that equals 2,100 gallons isn't that common sense.



Mr. Coppolo said that points have been very compelling points. Mrs. Robie said that she has worked diligently to produce the facts. They have not provided the Board with no facts they just told you.

Mr. Perkins said that he agrees that Mrs. Robie has brought forth some interesting points. Mrs. Robie said that the information provided was not points it was the truth.

Mr. Coppolo said that there has been a very good presentation. She said that she does not know one thing about the business but she has made no allegations and has presented the facts and told the truth.

Mr. Perkins said that he wants to make sure that a request be made the minutes have some of amendments made. Mrs. Robie said yes to the points that she made that are accurate on the video that say that she has made allegations. She said that she has made no allegations that she presented facts and it is on the video and presented it in writing.

Mr. Coppolo motioned to go into deliberative session.

Seconded by Mr. Kelley.

Vote: Unanimous.

Mrs. Navarro, Mr. Kelley, Mr. Coppolo, Mrs. Evans, Mr. Perkins

### **Deliberative Session**

Mr. Perkins said that there was a lot of information and recapped and tried to consolidate information provided. He said that his focus is of the question is and Attorney Hollis raised a question is the change of trucks considered a change of business or has the business evolved. Mr. Perkins said that there has been no challenge by Mrs. Robie of the number of toilets on site but the number of tanker trucks on the property.

Mr. Kelley said that the footprints are identical and the number of portable toilets has been reduced. He said that was reflected in the criteria of what Mr. Mackey had evaluated. Mr. Kelley said that he believes that the business owner has the ability to expand and that the bus company is more of an impact to the area than this business. He said that he did not see where the business has exceeded the footprint of the property and that there was no mention in merits given. He said that he has sat near the property on four different occasions and feels that the bus company is more of an impact than this business with the amount of traffic that goes in and out of it.

Mr. Perkins said that the impact point made is in the land and lot itself of what states a variance. He said that there is a murky line as trucks travel and not really a stationary fixture and can carry offensiveness and it is not the point to wipe out a prior variance. He said that Mrs. Robie has stated that it was hard to count the number of portable toilets as it changes daily and noted were 57 portables verses 200 portables on the property currently.

Mrs. Evans said that the initial variance was vague a 35 years ago. She said that the term portable services now sounds more in line of residential services to septic tanks given the testimony by Mrs. Robie and feel that there is some point of change of the business scope.

Mr. Perkins said that is a point of caution and Mrs. Robie's comments are of concern in light of the size of the trucks and having heard Attorney Hollis's testimony and Mrs. Robie's testimony. He said that he has not heard of any septic baffles or fit ups, etc. on the property of which are not there. Mr. Perkins said that the Board is unable to remove a 30 year variance as they do not have that ability. He said that the Board could be more specific going forward that it will not have an expansion with area of concern.

Mr. Coppolo said that you can restrict as operating on a residential zone. The question is are they doing what they were doing in 1984 is the only reason that they are permitted to doing what they are doing.

Mr. Kelley said that the Board is unable to tell them what they can or can not have on the property. They are still transport septic and are not storing construction materials. He said that if they started storing and installing leach fields then would be a problem. He said that he feels that there is no impact as no expansion of footprint and servicing residential units is not an expansion on the footprint of the property. Mr. Kelley said that if the number of portables and number of vehicles exceeded the footprint then there could possibly be a change.

Mrs. Evans said that the question of servicing portable units not residential servicing. The number of portables would be a difference in gallons and now servicing residential units appears to be significant difference. She said that they could eliminate the units entirely and not have the units and only do septic systems.

Mr. Coppolo said that he could see if they kept the business and opened a video store he said that would violate the variance. However, the physical footprint is the same as it was in 1984 as stated by Mr. Mackey who reviewed and found they were working in same feasible manner. He said that he appreciates Attorney Hollis's comments as he was also a bit hot at the prior meeting and apologizes also. Mr. Coppolo said that Mrs. Robie has provided a lot of evidence to show her points supporting her testimony that the business expansion and commend her tremendous case evidence as Mr. Mackey is unable to be everywhere and she highlighted some good points. Mr. Coppolo said that what Mrs. Robie has highlighted is that this business has a problem which is a problem with a lot of business have of non-conforming uses have that it is really handcuffed as unable to get much bigger. He said that is honestly not Mrs. Robie's problem but a legal problem at the end of the day. Testimony given that have had to make sacrifices and not expand the business but the ultimate question is that if you want to say in the location you agree not to expand but if you want to expand you go to some other location. This is not the only business that has faced this but it is a long-term problem as your operating on top of a somewhat legal permit on an unstable property in a residential zone. Mr. Coppolo said that the 1984 variance is vague as it states that the business not to expand and in hearing testimony need to review what defines the business and the meeting in 1984 does not

speak to servicing septic's so ultimately need to agree with Attorney Hollis that the prime interest was how many portable toilets and not the servicing of the residential properties.

Mr. Kelley said that that the property is not an operating illegally as were given a variance. He said that vehicles go along with servicing the portapotties as unable to have one without the other.

Mrs. Evans said that measurement of outage is a substantial difference bases on units not the number of homes that is unable to be set. She said that the variance was based on 200 units verses 500 homes.

Mr. Kelley said that is irrelevant as not expanded on the footprint and the Board cannot tell them how to conduct their business. It does not matter how many gallons or where they are dumping as long as they are not any different from what they have existing right now there is nothing the Board can say.

Mr. Perkins said that Mrs. Robie's challenge is the trucks not number of portables. He asked if the pictures provided show an expansion or evolvment of business showing a change of times. 1984 there were pickups now currently flatbeds so trying to see if an expansion of business or evolving to changing times.

Mr. Coppolo said that do not believe that there has been an expansion of business as no one argued the number of vehicles at the 1984 meeting only the number of portable units was argued.

Mr. Perkins said that the next point is of residential use verses portable services. He said that there was no way to police any truth to Mrs. Robie's testimony. Mr. Perkins said a note of no septic or leach field material should be on the property.

Mr. Coppolo said that there was no way to know how much septic was hauled in 1984 as no records were provided as part of testimony indicating there is more septic today.

Mr. Perkins said that he was not referring to outage but referring to actual septic materials on property as if you were seeing baffles or septic material would indicate an expansion of business.

Mr. Kelley motioned to come out of deliberative session.

Seconded by Mrs. Navarro.

Vote: Unanimous.

Mrs. Navarro, Mr. Kelley, Mr. Coppolo, Mrs. Evans, Mr. Perkins

**Mr. Coppolo motioned on case # 18-117 Roberta Robie to Grant Appeal of An Administrative Decision of the Code Enforcement Director for the property located at 29 Chester Road, PID 44012, Zoned MDR.**

**Seconded by Mrs. Evans.**

**Vote:**

**Mr. Coppolo:** No. Do not agree with appeal and agree with Mr. Mackey's decision. Do not believe that the business has intensified as indicated by the number of units. Do not believe there has been sufficient evidence provided to show that the business has changed.

**Mr. Kelley:** No. Know and value Mr. Mackey's knowledge and from the testimony given.

**Mrs. Navarro:** No. Believe Mr. Mackey was correct in his findings.

**Mrs. Evans:** No. Believe that not sufficient evidence given. Agree with Mr. Mackey's decision and concur with Mr. Coppolo.

**Mr. Perkins:** No, Believe the analysis was correct on the basis that new trucks represent a business that has evolved and not a business that has increased in size.

**The application was Granted by a vote of 5-0-0. Anyone aggrieved by a decision of the Board has 30 days to file a request for a rehearing. After that the recourse would be to appeal to Superior Court.**

**Approval of Minutes**

Mr. Perkins suggested before the minutes of June 21, 2018 are approved that some changes need to be adjusted to summarize the points that Mrs. Robie has requested. He said that the Board does not typically do verbatim minutes but a summary outlining the Boards proceedings. He instructed the clerk to possibly outline some of the main points and the Board will review them at the August meeting.

Mr. Kelley motioned to table the minutes of June 21, 2018 to the next meeting in August.

Seconded by Mr. Coppolo.

Vote: Unanimous.

Mrs. Morin, Mr. Rathburn, Mrs. Navarro, Mr. Kelley, Mr. Coppolo, Mrs. Evans, Mr. Perkins.

**Other Business**

Mr. Kelley invited everyone to attend Derryfest on September 15, 2018. He said that they are in need of volunteers to help with the event if anyone is available to assist in this worthwhile event.

### **Adjourn**

Mr. Coppolo motioned to adjourn.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mrs. Morin, Mr. Corbett, Mr. Rathburn, Mrs. Navarro, Mr. Kelley, Mr. Coppolo, Mrs. Evans, Mr. Perkins.

Adjourn at 9:30 pm

Minutes transcribed from notes & tape:

Ginny Rioux

Recording Clerk

### **Approval of Minutes August 16, 2018**

Mr. Kelley motioned to approve the minutes of July 19, 2018 as written.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mr. Corbett, Mrs. Morin, Mr. Rathburn, Mr. Burgess, Mrs. Navarro, Mr. Kelley, Mr. Coppolo, Mrs. Evans, Mr. Perkins.