

**MINUTES OF THE MEETING
PLANNING BOARD
January 11, 2018
7:00 PM**

MEMBERS PRESENT: Mark Beliveau, Acting Chairman; Robert Smith; David Cedarholm; John LaCourse, Selectmen Rep; Howard Hoff, Alternate & Wayne Lehman, Alternate.

OTHERS PRESENT: Jim Rozycki, ORCSD; Susan Cazwell, ORCSD; Molly Darling; Robin Wunderlich; Todd Miller; Bill Booth, Building Inspector; and Caren Rossi, Planning & Zoning Administrator

Mark Beliveau, Acting Chairman opened the meeting at 7:04PM.

Consultation with Todd Miller regarding Martial Arts at 29 Calef Highway.

Todd Miller explained that he is working with Lindsey Hadley from Joy of Dance to operate his martial arts business out of her studio when she does not have any classes going on. He would like to do this on Tuesdays from 7:30PM and Thursday from 7PM to 8:30PM. There are no other classes at this time in one of the studios and approximately 20 open parking spaces. He has a 6 month arrangement with Lindsey, thru August and then they will reevaluate her needs and see if there is still an open spot for him to teach. His training is geared to fire fighters and cops. The goal is for him to grow his business and need to rent a place of his own. He currently only has 3 students and operates from his home. Having a place to teach out of his home will allow him to advertise and get more students. He showed the board photos of pictures of the parking lot at the proposed time he would be teaching.

David Cedarholm asked where the entrance is.

Todd Miller replied the front of the building with parking in the back.

Mark Beliveau stated he felt it was a modest use, fits well into the existing space, no issues. The other members agreed, no site review required.

Jim Rozycki, ORCSD

Jim Rozycki provided a sketch of the proposed 4 class room addition and the addition to the front of the building.

A Four classroom addition

This will just be classrooms, no toilet facilities. There will be sinks in the classrooms. The projected need is for the growing enrollment. Currently there are 352 students at Mast Way, next year is expected to be 356 and the year after that is 369. There will be an empty classroom with this expansion, but it is future planning as well as additional space for Special Education. It will be funded out of the capital line in the operating budget. Estimated cost is 1.1 million. Construction is expected to begin in April. He would like to get approval from the town to be able to use the town field to access the addition as construction will begin while school is still in session. They will be cutting down approximately 25 trees for this project and will be asking the town to cut some down as well.

Caren Rossi explained that to get the towns approval for use of town land and tree cutting on town land, the BOS will have to approve this. Also having the property line marked to show exactly where the line is would be very helpful prior to attending the meeting. She also commented that she felt cutting of the trees will be a concern for many people.

John LaCourse, BOS rep. stated that the BOS would also require the conservation commissions input as well as possibly Don Quigley, the town forester, on removing the trees.

Front office addition

This project will be an addition of a covered entry similar to the high school. The school nurse and the office will be moved to this area. This is funded by a state safety and security grant that is covering 80%.

The Board discussed RSA 674:54, specifically a substantial change or a substantial new use.

674:54 Governmental Land Uses. –

I. In this section, "governmental use" means a use, construction, or development of land owned or occupied, or proposed to be owned or occupied, by the state, university system, the community college system of New Hampshire, or by a county, town, city, school district, or village district, or any of their agents, for any public purpose which is statutorily or traditionally governmental in nature.

*II. The state, university system, community college system of New Hampshire, county, town, city, school district, or village district shall give written notification to the governing body and planning board, if such exists, of a municipality of any proposed governmental use of property within its jurisdiction, **which constitutes a substantial change in use or a substantial new use.** Written notification shall contain plans, specifications, explanations of proposed changes available at the time, a statement of the governmental nature of the use as set forth in paragraph I, and a proposed construction schedule. Such notification shall be provided at least 60 days prior to the beginning of construction. Either the governing body or planning board of the municipality may conduct a public hearing relative to the proposed governmental use. Any such hearing shall be held within 30 days after receipt of notice by the governing body or planning board. A representative of the governmental entity which provided notice shall be available to present the plans, specifications, and construction schedule, and to provide explanations. The governing body or planning board may issue nonbinding written comments relative to conformity or nonconformity of the proposal with normally applicable*

land use regulations to the sponsor of the governmental use within 30 days after the hearing.

II-a. Any use, construction, or development of land occurring on governmentally owned or occupied land, but which is not a governmental use as defined in paragraph I, shall be fully subject to local land use regulations.

II-b. The construction and operation of any solid waste disposal facility on land owned or occupied by any city or town within another city or town shall be subject to local land use regulations to the same extent as if the land were owned and occupied by a private entity. Nothing in this paragraph shall affect the construction and operation of a solid waste facility on land owned by a solid waste management district formed under RSA 53-A or RSA 53-B or any combination of municipalities authorized by an act of the general court, if the land is located within a city or town that is part of the district.

III. This section shall not apply to:

(a) The layout or construction of public highways of any class, or to the distribution lines or transmission apparatus of governmental utilities, provided that the erection of a highway or utility easement across a parcel of land, shall not, in and of itself, be deemed to subdivide the remaining land into 2 or more lots or sites for conveyance for development purposes in the absence of subdivision approval under this title. For purposes of this subparagraph, "transmission apparatus" shall not include wireless communication facilities.

(b) The erection, installation, or maintenance of poles, structures, conduits and cables, or wires in, under, or across any public highways under RSA 231, or licenses or leases for telecommunication facilities in, under, or across railroad rights of way. For purposes of this subparagraph, "structures" shall not include wireless communications facilities.

IV. In the event of exigent circumstances where the delay entailed by compliance with this section would endanger public health or safety, the governor may declare a governmental use exempt from the requirements of this section.

Source. 1996, 262:1. 1998, 281:2. 2007, 29:1, eff. May 14, 2007; 361:32, eff. July 17, 2007.

The consensus of the Board members feel a public hearing is required.

Caren Rossi will connect Jim with Julie to attend the BOS meeting and contact all interested parties to arrange a site walk prior to the BOS meeting, once the property line is staked out.

PB1718-6

An application to amend a previous Site Review approval from Take Five Properties LLC, 122 Mast Rd Lee NH, Lee Tax Map # 13-11-0200. The original Conditional Approval was granted on November 6, 2014, and the Compliance Hearing Approval was granted on October 22, 2015. Item #2 of the Conditions Precedent is what is requested to be amended at this time. It reads as follows: "Plan shall be revised so that there shall not be more than 150 feet of continuous asphalt in the parking area as per the 2007 Site Review Regulations, Article V-B". This is an application acceptance hearing and a possible final hearing.

Robin and Molly provided photos of the existing parking lot and building from multiple angles and he explained the photos (Narrative in file). They explained why they did not feel that the regulation applies to them.

Mark Beliveau, Acting Chairman read the waiver regulation to the Board.

Waivers:

In accordance with RSA 674:44 III (e), the Board may grant a waiver from any provision of these regulations provided the Board finds, by majority vote, that:

- 1) *Strict conformity with the specific provision would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations; or*
- 2) *Specific circumstances relative to the subdivision and or lot line adjustment plan, or conditions of the land in the subdivision or lot line adjustment plan, indicate that the waiver will properly carry out the spirit and intent of these regulations.*

Unless "unnecessary hardship" is defined otherwise in applicable case or statutory law, it is defined herein as a situation where practical difficulties or unnecessary expense would result from strict compliance with the requirement, and where the applicant would be unduly burdened by the requirement as opposed to merely inconvenienced. Factors to be considered in determining the existence of a hardship shall include, but not be limited to:

- a) *Topography;*
- b) *Existing site features;*
- c) *Geographic location of the property; and*
- d) *Size/magnitude of the proposed project.*

Unless defined otherwise in applicable case or statutory law, the Board shall consider the following in determining whether a waiver would "not be contrary to the spirit and intent of the regulations" (per waiver provision above) or "properly carry out the spirit and intent of these regulations" (per waiver provision above):

- 1) *whether granting the waiver will be detrimental to the public safety, health, or welfare, or injurious to other property,*
- 2) *whether granting the waiver will promote the public interest; and*
- 3) *whether granting the waiver is consistent with the provisions of the Lee Zoning Ordinance, and any official maps.*

Factors to be considered shall include, but not be limited to:

- a) Topography;
- b) Existing site features;
- c) Geographic location of the property; and
- d) Size/magnitude of project being evaluated.

In approving waivers, the Board may impose such conditions as it deems appropriate to secure the purpose of the particular requirement being waived.

A request for a waiver shall be submitted in writing by the applicant along with the application for Board review. The applicant shall address how any waiver request satisfies one of the two justifications for granting waivers, see above.

The Board minutes shall include any waivers that are granted or denied, including the basis for the decision.

Any approved waiver, including a description of the waiver, shall be noted in the Notice of Approval and on the approved plan.

Mark Beliveau, Acting Chairman commented that he feels the intent of the ordinance has been met; which is to avoid the continuous sight of blacktop. He feels the location of the buildings, the curve in the land, this doesn't happen.

Other members agreed.

John LaCourse made a motion grant the request.

Robert Smith, second.

Vote: all, waiver granted.

PB1718-7

The Town of Lee Planning Board will conduct a final public hearing on Thursday, January 11, 2018 at 7:00 pm at the Public Safety Complex, 20 George Bennett Rd, Lee NH on the following Zoning & Building Regulations.

Note: **Changes are Bold Italics** and Deletions are underlined.

The 2017 Lee Zoning Ordinance, if amendments/changes/additions are passed by Town vote this March, this will change to the 2018 Lee Zoning Ordinance. The proposed changes are as follows:

Zoning Ordinance

Article II, Definition

Accessory Dwelling Unit: Shall mean a separate dwelling unit which is contained within or attached to a single family residence on a conforming lot. Such unit shall have no more than two bedrooms and shall be no larger than eight hundred (800) sq. feet. The primary unit shall **One of the units must be owner occupied.**

The 2017 Lee Building Regulation, if amendments/changes/additions are passed by Town vote this March, this will change to the 2018 Lee Building Regulations. The proposed changes are as follows:

Building Regulations

Article II, Definitions

Accessory Dwelling Unit: Shall mean a separate dwelling unit which is contained within or attached to a single family residence on a conforming lot. Such unit shall have no more than two (2) bedrooms and shall be no larger than eight hundred (800) sq. feet. The primary unit shall **One of the units must be owner occupied.**

Caren Rossi stated that last year when the regulation changed, we overlooked that the state changed that we cannot require the primary unit to be owner occupied we can specify one of the units has to be owner occupied but we can't specify it to be the primary unit. This change brings us in compliance with the RSA.

o OLD Business

Caren Rossi showed the Board a plan from back in 1999 for Eliminator Systems. It has been brought to her attention that Charlie Goodstein has expanded the area of pavement on his site on Rt. 125.

The Board suggested we conduct a site walk in the spring to see what has actually been done and if we foresee any issues.

Wayne Lehman made a motion to adjourn at 8:32PM.

David Cedarholm second.

Vote: all, meeting adjourned.

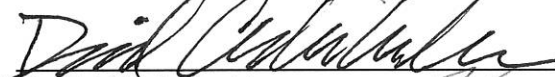
MINUTES TRANSCRIBED BY:



Caren Rossi, Secretary

MINUTES APPROVED BY:


Mark Beliveau, Acting Chairman



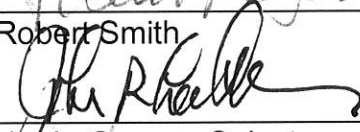
David Cedarholm



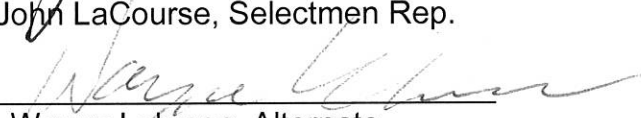
Howard Hoff, Alternate



Robert Smith



John LaCourse, Selectmen Rep.



Wayne Lehman, Alternate

**TOWN OF LEE PLANNING BOARD
7 MAST ROAD
LEE, NH 03861
Planning Board Public Notice
Agenda**

The Town of Lee Planning Board will conduct a public meeting on January 11, 2018 at 7:00 pm at the Public Safety Complex.

The Agenda is as Follows:

7:00 pm – Call to order by Chairperson

- Roll Call
- Report of officers and committees
- Review any correspondence
- Minutes

Approve Draft Minutes of 12/7/2017

- NEW BUSINESS

Consultation with Todd Miller regarding Martial Arts at 29 Calef Highway. ✓

Consultation with Jim Rozycki regarding an addition at Mast Way School. ✓

PB1718-6

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- OLD Business

OTHER BUSINESS: New Business/Public Comment

POSTED AT THE LEE TOWN HALL AND THE OFFICE OF PLANNING & ZONING, ON WEDNESDAY, JANUARY 3, 2018 AT 12:00 NOON.