

**MINUTES OF THE MEETING  
LEE ZONING BOARD OF ADJUSTMENT  
Wednesday, September 16, 2015  
7:00 PM**

**MEMBERS PRESENT:** Jim Banks, Chairman; John A. Hutton; & Frank Reinhold, Alternate; and Peter Hoyt, Alternate;

**OTHERS PRESENT:** Lawrence Hamilton; Paul Power; Heiner & Ute Luxem; and Caren Rossi, Planning/Zoning Administrator.

Jim Banks, Chairman explained to both applicants that they are entitled to a board of five. Tonight we only have four board members present. If they choose to go forward and they are denied, a board of four is not a reason for a rehearing.

Both applicants agreed to go forward with a board of four.

John Hutton clerked.

**(ZBA1516-02)**

**An application from Heiner & Ute Luxem, 28 Northside Road, Lee NH. Property is known as Lee Tax Map #11-04-2200. The applicant requests a variance of the 2015 Lee Zoning Ordinance, Article XIV; Shoreland Conservation District, section C-b and/or Article XXIII, number-3, in that the applicant is proposing to construct a garage on a non-Conforming Lot that is within the Shoreland Conservation District.**

Heiner Luxem explained to the Board that they would like to construct a garage. There isn't any location on the lot that it can be achieved without relief. He explained that the property has a dangerous slope in it making it a necessity in the winter time for a garage for safety. He addressed the variance criteria in his application.

Public comment

Paul Power, 26 Northside, spoke in favor of the application.

Caren Rossi read a letter of support, into the record, from Richard and Maria Meyer, 30 Northside Rd. (In file)

The Board reviewed the Conservations Commissions letter. (In file)

Toni Hartgerink stated that if they reduce the length of the existing driveway by planting some trees, it will reduce the runoff into the pond.

Jim Banks, Chairman stated that he feels the real issue with the run off is the road. He has had an interest in that property since 1970 and he feels that the ditching alongside of the road is gone so the runoff just goes straight into the pond.

Public comment closed.

Frank Reinhold stated that he had no objections with the proposal.

Peter Hoyt agreed.

John Hutton spoke that he felt the impervious surfaces benefits are better with the garage. Knowing the history of the pond he is comfortable with this application as it's an improvement. He has no issues with the application.

Peter Hoyt made a motion to merge the two requests and act on them as one.

Frank Reinhold second.

Vote: all.

The Board determined the following Findings of Fact:

#### PRELIMINARY FINDING

After reviewing the petition and having heard the presentation by the applicant, the Board finds that it does not have sufficient information upon which to render a decision. The public hearing will be postponed until \_\_\_\_\_.

There is sufficient information before the Board to proceed. **Yes all**

#### FINDINGS

After reviewing the petition and considering all of the evidence as well as the Board members' personal knowledge of the property in question, the Board makes the following determinations pursuant to RSA 674:33. The Board has checked each statement that applies.

- 1) Granting the Variance will not be contrary to the public interest. Yes majority
- 2) Granting the variance would be consistent with the spirit of the ordinance. Yes majority
- 3) In granting the variance, substantial justice is done. Yes majority
- 4) In granting the variance, the values of surrounding properties are not diminished. Yes majority
- 5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship to applicant. (A)Yes majority
  - A) To find that an "unnecessary hardship" exists, the Board must find:
    - o There are special conditions on the subject property that distinguish it from other properties in the area; *and*
    - o No fair and substantial relationship exists between the purpose of the ordinance and its application to the property in question.

John Hutton made a motion to grant the request for a variance of the 2015 Lee Zoning Ordinance, Article XIV; Shoreland Conservation District, section C-b and/or Article XXIII, number-3, in that the applicant is proposing to construct a garage on a non-Conforming Lot that is within the Shoreland Conservation District. Subject to the condition that Best Management Practices be followed.

Frank Reinhold second.

Vote: all

Jim Banks explained the 30-day appeal period to the applicants.

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**(ZBA1516-03)**

**An application for a Variance from applicant Lawrence & Leslie Hamilton of 79 Garrity Road. The property is known as Lee Tax Map #09-01-0200. The applicant is requesting a variance of the 2015 Lee Zoning Ordinance, Article V; Residential Zone, Section b-3 setbacks. In that the applicant is proposing to construct an attached garage to the existing home 0' + - from the side property line where 25' is required.**

John Hutton clerked.

Lawrence Hamilton explained that they have lived here since 1977. Last year they had a 30' slab of ice fall off the roof and luckily no one was around or they would have been killed. For safety reasons, they would like to construct a garage. Due to the way their land contours, the only location for it is where it is proposed. The house sits on top of a hill, telephone pole locations, the septic is in the back, the only flat spot on the property is this area. There will only be a 10' +/- strip of land between the house and the garage as proposed. It is a very tight lot. They need room to store snow removal equipment, generators and their cars. There will not be any impact on the recreation land, they are not proposing any additional pavement.

Caren Rossi explained that they did see about doing a lot line adjustment with the abutter. The land is town owned and under a conservation easement so it was not likely this could be done.

Public comment  
None

Jim Banks, Chairman wanted to ensure that they would not construct the garage on the abutting property.

Lawrence Hamilton explained that this would not happen, they are aware of their property lines.

Caren Rossi explained that the line is staked out with a string connecting the lines.

Jim Banks, Chairman asked if the setback is to the dripline of the garage?

Lawrence Hamilton replied yes.

Caren Rossi reminded the Board that the criteria was addressed in the application.

Board members did not have any questions.

The Board determined the following Findings of Fact:

#### PRELIMINARY FINDING

After reviewing the petition and having heard the presentation by the applicant, the Board finds that it does not have sufficient information upon which to render a decision. The public hearing will be postponed until \_\_\_\_\_.

There is sufficient information before the Board to proceed. **Yes all**

### **FINDINGS**

After reviewing the petition and considering all of the evidence as well as the Board members' personal knowledge of the property in question, the Board makes the following determinations pursuant to RSA 674:33. The Board has checked each statement that applies.

1. Granting the Variance will not be contrary to the public interest. Yes majority
2. Granting the variance would be consistent with the spirit of the ordinance. Yes majority
3. In granting the variance, substantial justice is done. Yes majority
4. In granting the variance, the values of surrounding properties are not diminished. Yes majority
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship to applicant. (A)Yes majority
6. To find that an "unnecessary hardship" exists, the Board must find:
  - o There are special conditions on the subject property that distinguish it from other properties in the area; *and*
  - o No fair and substantial relationship exists between the purpose of the ordinance and its application to the property in question.

John Hutton made a motion to grant the request for a Variance from applicant Lawrence & Leslie Hamilton of 79 Garrity Road. The property is known as Lee Tax Map #09-01-0200. The applicant is requesting a variance of the 2015 Lee Zoning Ordinance, Article V; Residential Zone, Section b-3 setbacks. In that the applicant is proposing to construct an attached garage to the existing home 0' from the side property line where 25' is required.

Peter Hoyt second.

Vote: all, motion carried.

Jim Banks, Chairman explained the 30-day appeal process to the applicant.

MINUTES TRANSCRIBED BY:

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Caren Rossi, Planning & Zoning Administrator

MINUTES APPROVED BY:

\_\_\_\_\_  
Jim Banks, Chairman

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John Hutton

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Frank Reinhold, Alternate

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Peter Hoyt, Alternate