

**MINUTES OF THE MEETING  
LEE ZONING BOARD OF ADJUSTMENT  
Wednesday, September 24, 2014  
7:00 PM**

**MEMBERS PRESENT:** Jim Banks Chairman; John A. Hutton III; Tobin Farwell; Frank Reinhold, Jr. Alternate; and Peter Hoyt, Alternate

**OTHERS PRESENT:** Amanda Hanson; Scott Grumbling; Matt Dwyer; Kevin & Jane Crawford; Naithan Couse; and Caren Rossi, Planning/Zoning Administrator.

**(ZBA1415-05)**

**An application submitted by Amanda Hanson, Boulder Brook Stables. Property is owned by Jay S. Grumbling Revocable Trust; known as Lee Tax Map #24-07-0000 and is located at 596 Calef Highway. The applicant requests a variance to Article XVII, Signs, Section - 7a; 1 to allow for a Farm Sign to be located in the ROW, approximately 20+- feet from the edge of the traveled way. The request is to the 2014 Town of Lee Zoning Ordinance.**

Tobin Farwell clerked and read the notice into the record.

Caren Rossi explained that the Farm Sign regulations differs from the other regulations in that the other regulations the location of the sign is 20' from the edge of the traveled way and this regulation is signs are not allowed in the ROW. This regulation is not consistent with all of the other sign regulations.

Amanda Hanson explained that she has an equestrian facility; they have been there for 8 years. The speed limit is 55mph by the entrance. The entrance is treed with the exception of the gate, which is located just the on the other side of the ROW. The ROW in this section of Calef Highway is 88'. If she were to put the sign out of the ROW it would not be as visible due to the trees and the distance from the road. She needs a sign for the safety of her visitors and customers. The other signs in her area are all the same distance. She addressed the 5 criteria in her application. She explained the pictures she provided. There was a person holding a stake where the sign would be located showing the north and south board views as well as the wooded entrance.

Public comment

None

Tobin Farwell stated he felt it was a very reasonable request and is consistent to the other sigs in the area.

Peter Hoyt had no issues with the request.

John Hutton commented that he felt it was a good location and she had done her due diligence.

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 aren't diminished. Yes majority
  
- 5.) Literal enforcement of the provisions of the ordinance would result (A) Yes majority in an unnecessary hardship to applicant.
  - 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.
  
  - B) In the alternative, if the above criteria are not satisfied, the Board may still find that an unnecessary hardship exists if it finds:
    - o There are special conditions on the subject property that distinguish it from other properties in the area; *and*
    - o The property cannot be reasonably used under the ordinance and therefore, a variance is necessary to enable a reasonable use of it.

John Hutton made a motion to approve the request submitted by Amanda Hanson, Boulder Brook Stables. Property is owned by Jay S. Grumbling Revocable Trust; known as Lee Tax Map #24-07-0000 and is located at 596 Calef Highway. The applicant requests a variance to Article XVII, Signs, and Section -7a; 1 to allow for a Farm Sign to be located in the ROW, approximately 20+- feet from the edge of the traveled way. The request is to the 2014 Town of Lee Zoning Ordinance.

Tobin Farwell second  
Vote: all, motion carried, request granted.

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

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**(Z1415-06)**

**An application made by Naithan Couse, 10 Fox Garrison Rd. Property is known as Lee Tax Map # 19-07-0900. The applicant is requesting a Variance to Article 5, Section B-2, Frontage. The applicant wishes to subdivide the house off from the existing parcel and make it a standalone lot. It only has 61.70+- feet of the required 250 feet of road frontage. This request is to the 2014 Town of Lee Zoning Ordinance.**

Tobin Farwell clerked and read the application into the record.

Naithan Couse explained that he would like to subdivide off the existing house from the entire parcel. He has only 61+- feet of frontage for the house. He feels it is consistent with the area as the houses on each side of him do not have the required frontage either. He needs to create the separate house lot as he cannot get financing for his property as it is a mixed use property. He already has two mailing address as well for the separate lots. He addressed the criteria for the hardship in his zoning board application.

Tobin Farwell has concerns as it would set a precedent as well as recently this same Board denied a very similar request for Walter Cheney.

Jim Banks, Chairman explained that he feels the zoning is for new lots to be created, this lot has already been created. It exists.

Public Comment

Kevin Crawford spoke against the application. He feels that he perhaps can get financing with a different lender. When he looked at purchasing the property he didn't due to not being able to get this lot subdivided off. In his mind it is not an acceptable reason for a variance.

Matt Dwyer spoke, not for and not against. He is in favor of entrepreneur. He spoke with Naithan; in his opinion is not a good neighbor. He has loud parties, shoots guns excessively etc. He is very disrespectful.

Public closed

John Hutton stated he isn't comfortable with this; it is a precedent, especially with such a large amount. If it was a few feet, that would be one thing, but this request is 190 feet. He has no issues with the applicant at all, just the request. He knows what he bought when he bought it.

Tobin Farwell spoke that he feels it is a great property, and could make it work somehow.

Jim Banks, Chairman suggested he do a long sliver of frontage from Calef Highway that connects to the piece on Fox Garrison Rd.

Peter Hoy wasn't comfortable either with the application.

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. NO majority
- 2.) Granting the variance would be consistent with the spirit of the NO majority Ordinance.
- 3.) In granting the variance, substantial justice is done. NO majority
- 4.) In granting the variance, the values of surrounding properties aren't diminished. Yes majority
- 5.) Literal enforcement of the provisions of the ordinance would result (A) NO majority in an unnecessary hardship to applicant.

John Hutton made a motion to deny the application made by Naithan Couse, 10 Fox Garrison Rd. Property is known as Lee Tax Map # 19-07-0900. The applicant is requesting a Variance to Article 5, Section B-2, and Frontage. The applicant wishes to subdivide the house off from the existing parcel and make it a standalone lot. It only has 61.70+- feet of the required 250 feet of road frontage. This request is to the 2014 Town of Lee Zoning Ordinance.

Tobin Farwell second.  
Vote: all motion carried.

Meeting adjourned at 7:45pm.

MINUTES TRANSCRIBED BY:

\_\_\_\_\_  
Caren Rossi, Planning & Zoning Administrator

MINUTES APPROVED BY:

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

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John A. Hutton III

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Tobin Farwell

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Peter Hoyt, Alternate

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Frank Reinhold, Alternate