

**MINUTES OF THE MEETING
LEE ZONING BOARD OF ADJUSTMENT
October 30, 2013
7:00 PM**

MEMBERS PRESENT: Jim Banks, Chairman; Tobin Farwell; John A. Hutton, III; Philip Sanborn; and Frank Reinhold, Alternate.

OTHERS PRESENT: James Cody; Sandra Vivolo-Cody; Jim Marquette; Caren Rossi, Planning/Zoning Administrator.

John Hutton Clerked and ready the notice and abutters into the record.

An application for a Variance to Article V, Section B-3 of the 2013 Lee Zoning Ordinance made by James Cody and Sandra Vivolo-Cody. The applicants request a variance to construct an addition to the existing home 23'.8" from the property line where 25' is required. The property is known as Tax Map #32-03-0000.

James Cody explained that they would like to put on a small addition to their existing home. The house is angled as such that it is not square/parallel to the road so the addition will encroach at one corner 18"±. If they keep the roof lines the same it will help with ice dams. Currently, they do have a small issue with an ice damn on the back of their home. If they change the roof lines, it will create an ice damn.

Ryan Thompson submitted a letter in support. No other public comment.

Tobin Farwell stated he was fine with it and the direct neighbor spoke in favor.

John Hutton had no issues with the request.

Philip Sanborn had no issues with the request.

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 (all)

- 2) **Granting the variance would be consistent with the spirit of the ordinance.** Yes (all)

- 3) **In granting the variance, substantial justice is done.** Yes (all)

- 4) **In granting the variance, the values of surrounding properties are not diminished.** Yes (all)

- 5) **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship to applicant.** Yes (majority)
(JH no)
 - A) To find that an "unnecessary hardship" exists, the Board must find:
 - There are special conditions on the subject property that distinguish it from other properties in the area; *and*
 - 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:
 - There are special conditions on the subject property that distinguish it from other properties in the area; *and*
 - The property cannot be reasonably used under the ordinance and therefore, a variance is necessary to enable a reasonable use of it.

Tobin Farwell made a motion to grant the request for a Variance to Article V, Section B-3 of the 2013 Lee Zoning Ordinance made by James Cody and Sandra Vivolo-Cody. The applicants request a variance to construct an addition to the existing home 23'.8" from the property line where 25' is required. The property is known as Tax Map #32-03-0000.

Frank Reinhold second.

Vote: all

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

MINUTES TRANSCRIBED BY:

Caren Rossi, Planning & Zoning Administrator

MINUTES APPROVED BY:

Jim Banks, Chairman

Tobin Farwell

Philip Sanborn

John A. Hutton, III

Frank Reinhold, Alternate