

**MINUTES OF THE MEETING
LEE ZONING BOARD OF ADJUSTMENT
Wednesday, November 18, 2015
7:00 PM**

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

OTHERS PRESENT: Nate Couse; Melissa Bouchard; Eileen Boisvert; Mitch Crosbie; and Caren Rossi, Planning/Zoning Administrator.

John Hutton clerked.

(ZBA1516-04)

The applicant is Melissa Bouchard, property owned by Naithan Couse. Property is located on Calef Highway & Fox Garrison Road and is known as Lee Tax Map #19-07-0900. The applicant is requesting the following variances of the 2015 Lee Zoning Ordinance.

A variance to Article V; Residential Zone, A- Permitted Uses. The applicant is proposing to have a year round onsite mobile food vendor & associated items. *Note: this will be an additional commercial use on the property.

A variance to Article XVII, Signs #5 a; b; c; e; & f. To allow for a sign, approximately 8 sq. ft. +- , and located 14 +- feet from the edge of the traveled way.

A variance to Article XVII, Signs #3, C-3 b; c; e & f to allow for 4 temporary flags advertising items sold.

Melissa Bouchard explained that she would like to relocate her existing business, Coffee Craving that had been located at the abutting property, 455 Calef Highway to this property at the existing business, Make A Difference Landscaping. She will not be changing anything from the existing location, just moving locations. This is an established business, and larger that can easily accommodate this use. This will be a more permeant location.

Caren Rossi wanted it to be clear to the board that this was noticed as an additional use because the existing business and what has been previously approved will still be there. This is an additional use and additional signage that what is already there.

Jim Banks, Chairman asked what type of business is it?

Melissa Bouchard explained it is a custom built 6' x 12' trailer, 2 coffee burners, and refrigerator, basically it is a standard coffee shop on wheels. She sells coffee, tea, lemonade, muffins, donuts etc. It runs off of electricity not a generator. She has a 20' power cord on the trailer and will plug into a power pole.

Frank Reinhold asked where the power is now.

Melissa Bouchard explained that Nate Couse will install a power pole, pending approval, for her to hook into.

Jim Banks, Chairman asked if she will be using a portable toilet.

Melissa Bouchard replied that they would not be, they will be using the facilities in the building at Make A Difference Landscaping.

Jim Banks, Chairman asked if she felt she had enough business for this.

Melissa Bouchard replied that yes, her business has actually doubled since her first season.

Jim Banks, Chairman asked what hours, days, and or months is she open?

Melissa Bouchard replied that she is typically open 6:30 am to 4:00 pm spring thru fall but she would like to be open year round. 90% of her business is drive thru.

Frank Reinhold asked if there are going to be any parking lot changes.

Melissa Bouchard replied no.

Frank Reinhold asked if there are going to be any egress changes.

Melissa Bouchard replied no.

Jim Banks, Chairman asked if she how many employees?

Melissa Bouchard explained that generally there is only one employee per shift. Sometimes there is an overlap.

Jim Banks, Chairman asked what happens when people have to use the bathroom.

Melissa Bouchard explained that they put a sign up in the window and will go across the parking lot into the building.

Jim Banks, Chairman asked if she makes the items on sight.

Melissa Bouchard replied not the food, the drinks. She is licensed thru the state for her products. She tries to keep 4 days' supply in the trailer.

Public Comment

Irene Boisvert- Demeritt Ave. Asked where the trailer would be with respect to the building? Will it be where Todd's Grill is?

Melissa Bouchard explained no, she was there and now she will be located down the street at Make A Difference Landscaping.

Mitch Crosbie spoke with concerns of the headlight glare into this home from the cars entering in to get coffee. Will the sign be lit at night?

Melissa Bouchard stated the sign would not be lit at night.

Nate Couse stated he would be happy to meet Mitch out on the sight to look into the light issue.

Caren Rossi stated this would be addressed at the planning board level if the use is granted. It would be good to meet prior to the planning board meeting if possible.

Nate Couse stated that he felt his tenants would be most affected by the vehicles headlights.

Floor closed

John Hutton and Frank Reinhold both commented that the planning board would deal with light issues.

The Board had no further questions.

The Board determined the following findings of fact:

Use Variance 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 variance to Article V; Residential Zone, A- Permitted Uses. The applicant is proposing to have a year round onsite mobile

food vendor & associated items. *Note: this will be an additional commercial use on the property. Subject to the following condition:

The Planning Board shall address the headlight glare from the automobiles onto the abutting property of tax map#19-07-0500.

Frank Reinhold Second.

Vote: all, motion carried.

John Hutton made a motion to do both sign requests together.

Peter Hoyt Second.

Vote: all, motion carried.

The Board The Board determined the following Findings of Fact:

Sign Requests 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 (A)Yes majority in an unnecessary hardship to applicant.

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.

John Hutton made a motion to grant A variance to Article XVII, Signs #5 a; b; c; e; & f. To allow for a sign, approximately 8 sq. ft. + -, and located 14 +- feet from the edge of the traveled way. And a variance to Article XVII, Signs #3, C-3 b; c; e & f to allow for 4 temporary flags advertising items sold.

Frank Reinhold second.

Discussion:

John Hutton stated that he felt due to the speed limit in this area, and they will not be lit, he felt it was a reasonable request.

The other Board members agreed.

Frank Reinhold asked if the flags would be permanent.

Melissa Bouchard stated she will be bringing them in at night.

John Hutton amended his motion to add the condition that the flags be brought in at night.

Vote: all, motion carried.

John Hutton made a motion to grant A variance to Article XVII, Signs #5 a; b; c; e; & f. To allow for a sign, approximately 8 sq. ft. + -, and located 14 +- feet from the edge of the traveled way. And a variance to Article XVII, Signs #3, C-3 b; c; e & f to allow for 4 temporary flags advertising items sold. Subject to the following conditions: All flags be brought in at the close of business daily.

Second, Frank Reinhold.

Vote: all, motion carried.

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

MINUTES TRANSCRIBED BY:

Caren Rossi, Planning & Zoning Administrator

MINUTES APPROVED BY:

Jim Banks, Chairman

John Hutton

Frank Reinhold, Alternate

Peter Hoyt, Alternate

Roy Wilson, Alternate