

**MINUTES OF THE MEETING  
LEE ZONING BOARD OF ADJUSTMENT  
Wednesday, November 2, 2016  
7:00 PM**

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

**OTHERS PRESENT:** Amy & Yehuda Daskal; Mike Garrepy; and Caren Rossi, Planning/Zoning Administrator.

**(ZBA1617-05)**

**The applicants are the Daskal Family Living Trust, Yehuda & Amy Trustees. They are requesting a Special Exception to Article V- D, Special Exception. The request is to have a Bed & Breakfast in an existing outbuilding. The property is known as Lee Tax Map #21-09-0000 and is located on 105 North River Road. This request is to the 2014 Town of Lee Zoning Ordinance.**

John Hutton clerked.

John Hutton wanted it know for the record he was an abutter but he did not feel he had a conflict of interest with this application.

Caren Rossi explained that there is an error in the notice and the B&B is in their home not in a separate building. This is not an issue because most are in their homes, where the term comes from but the copy and paste was from the one on Radford Dr. that was an exception to the norm which is why it had more detail.

Yehuda Daskal explained that they would like to have a B&B in their home. The first floor, 1-4 people. There is plenty of existing parking, no fire issues as it's the first floor. It will be advertised on-line so there will not be a sign.

Public comment  
None, floor closed.

The Board members did not have any issues with the application. They felt it was a great use of the property with plenty of room for parking, lighting adequate etc.

The Board determined the following findings of fact:

PRELIMINARY FINDING

After reviewing the petition and having heard the presentation by the applicant, it is found that the Board has (majority) sufficient information available upon which to render a decision. If there is sufficient information, the application will be deemed accepted and the public hearing will continue. If it is found that the Board does not have sufficient information, the public hearing will be postponed to a date certain on \_\_\_\_\_.

For Special Exceptions permitted under Article V:

The use is specifically permitted under the terms of Article V for a Special Exception.

Yes: (majority)

Satisfactory arrangements have been made for the following as required by Article V of the Zoning Ordinance:

1. Ingress and egress to the property and proposed structures or uses with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and in case of fire or catastrophe;  
Yes: (majority)
2. Off-street parking and loading areas where considered necessary by the board;  
Yes: (majority)
3. Control of noise, glare, odor or other potentially adverse effects of the proposed use on nearby property and screening or buffering to alleviate such effects;  
Yes:
4. Refuse and service areas; Yes (majority)
5. Control of drainage and erosion; Yes (majority)
6. Lighting must be installed with due regard to glare, traffic safety and compatibility and harmony with adjoining property and the character of the area. Yes (majority)

In addition, the following criteria have been satisfied:

1. A landscaped buffer zone must be maintained between the Special Exception and any residential lot line. The requirement of the buffer will be determined by the Planning Board during Site Review.

N/A

2. Signs must conform to requirements of Article XVII of this ordinance.

N/A

3. Only one (1) residential structure and/or one (1) business, shall be permitted for that use on each lot.

Yes (majority)

4. Each site will be permitted only one (1) access from the public right-of-way.

Yes (majority)

**For all Special Exception requests, findings and rulings.**

After reviewing the above, the Board has determined the following findings of fact, all of which must be satisfied to grant a special exception as required by Article XXII.3 of the Zoning Ordinance.

- 1) The proposed use will not (majority) be detrimental to the character or enjoyment of the neighborhood or to future development by reason of undue variation from the kind and nature of other uses in the vicinity or by reasons of obvious and adverse violation of the character or appearance of the neighborhood or cause diminution in the value of surrounding property.
- 2) The use will not (majority) be injurious, noxious or offensive and thus be detrimental to the neighborhood.
- 3) The use will not (majority) be contrary to the public health, safety or welfare by reason of undue traffic congestion or hazards, undue risk of life and property, unsanitary or unhealthful emissions or waste disposal, or similar adverse causes or conditions.

John Hutton made a motion to approve the request of the Daskal Family Living Trust, Yehuda & Amy Trustees. They are requesting a Special Exception to Article V- D, Special Exception. The request is to have a Bed & Breakfast in an existing outbuilding. The property is known as Lee Tax Map #21-09-0000 and is located on 105 North River Road. This request is to the 2014 Town of Lee Zoning Ordinance.

Craig Williams second.

Vote: majority, motion carried.

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

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**(ZBA1617-06)**

**The applicant is Tuck Realty Group, representing Maple Heights Realty LLC; Equine Properties LLC; Heather & Daniel Couture; Vilicus Homes Inc.; Bonza Builders LLC; Edward Sunshine & Elizabeth & Michael Vardaro. The request is to 2008 Building Regulations, Article IX, E -Wells, as applicable. The properties are known as Lee Tax Map #01-07 sub lots - 01; 02; 03 04; 05; 06; 07; 08; 09; 10; 11; 15; 16; 17; 20; 21; 25; 26; 27 & 28 all are located on Chestnut Way.**

John Hutton clerked.

Caren Rossi explained that this project was approved a few years ago and it was reviewed as part of the process by the Town Engineer. The engineer was not familiar with the above regulation as it is a small blurb in the building regulations and it had been several years since he has reviewed a subdivision plan for the town. Had he seen this, the designed would possibly have been different. It is my interpretation of the ordinance that the setback is to the entire 4k area not partly. She read the regulation for the Board. *A new well, drilled or dug, shall not be placed closer than forty (40) feet to an undeveloped lot line or less than one hundred twenty-five (125) feet from an existing or proposed septic system leach bed.* I cannot waive the building regulations, a variance needs to be applied for and granted for me to authorize the designs to get stamped and sent for state approval. She continued to explain that it appears this regulation goes back to the inception of the regulations and the logic behind it is the old style systems and dug wells for the protection distance. New designs of both wells and septic make this distance not necessary. This regulation is only for undeveloped lots. Past practice is when the system or the well is being replaced, they only need to meet state regs which is 75'. She also explained she has discussed changing this regulation with the planning board and as of now, they are amenable to it.

Mike Garrepy presented a plan showing the lots and the areas shaded in green are the locations that do in deed meet the regulation. Not the entire area, but part of it.

John Hutton asked if he did this subdivision.

Mike Garrepy explained not, they bought this as an approved development.

The Board discussed the application.

Caren Rossi further explained that because it was a town error, the town absorbed the cost and it was less expensive to do it as a package and not individually as they came in. If the planning board does change the regulation and the lots are designed after the vote, the variances are mute. It wasn't fair to make the owners wait though until this happens, if.

Public comment  
None, floor closed.

The Board members did not have any 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 majority**

#### 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:**

- **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 the request for Tuck Realty Group, representing Maple Heights Realty LLC; Equine Properties LLC; Heather & Daniel Couture; Vilicus Homes Inc.; Bonza Builders LLC; Edward Sunshine & Elizabeth & Michael Vardaro. The request is to 2008 Building Regulations, Article IX, E -Wells, as applicable. The properties are known as Lee Tax Map #01-07 sub lots - 01; 02; 03 04; 05; 06; 07; 08; 09; 10; 11; 15; 16; 17; 20; 21; 25; 26; 27 & 28 all are located on Chestnut Way. Subject to the condition that the wells be located no closer than 75' from the edge of the leach bed.

Peter Hoyt second.

Vote: majority, motion carried.

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

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**(ZBA1617-07)**

**The applicant is Jenn Robichaud representing Barlow Signs for property owned by DSM MB LLC (Market Basket). They are requesting a Variance to Article XVII, Signs #4, a-h, as applicable. The request is to replace/expand the existing signs. The property is known as Lee Tax Map #04-02-0000 and is located on Concord Rd & Calef Highway. This request is to the 2015 Town of Lee Zoning Ordinance**

John Hutton made a motion to continue this meeting to December 14, 2016 at 7PM.

Peter Hoyt second.

Vote: majority, meeting continued.

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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Craig Williams, Alternate