

**MINUTES OF THE MEETING  
LEE ZONING BOARD OF ADJUSTMENT  
December 14, 2011**

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

**OTHERS PRESENT:** Allan Dennis, CEO; Caren Rossi, Secretary; Cindy Stenmark; Paul Stenmark; Sally Novell; Paul Tuck; Phyllis Murray; Thomas Bonocorsi; Yvon Durant; Scott Hogan and Walter Cheney

**(Z1112-10)**

**An application for Variance of the 2011 Lee Zoning Ordinance from Southeast Gravel Corp, Walter E. Cheney; President, is requesting a variance to Article V; Residential Zone, Section B; Lot Requirements, item number 2-Frontage, in that the applicant owns approximately 12. 29 acres (+/-) that has existing access from Newtown Plains Road and also an existing access from Pinkham Road. The applicant is request a variance to allow access from Pinkham Road of approximately 73 feet (+/-) where 250 feet of access is required, in order to allow for a subdivision of one (1) building lot of approximately 5.63 acres, which would leave the remaining parcel of approximately 5.86 acres to be used as another building lot utilizing the exiting “grandfathered” (so-called) access from Newtown Plains Road.**

John Hutton read the application into the record.

Walter Cheney explained to the Board that he would prefer to just use both access to the existing lot and only build 2 homes as opposed to putting in a town road and building it out to its potential. He explained that another option he had for the land would be to do a lot line adjustment and build a lot of houses out there. He felt this option would be the best for the land and for the neighborhood. He provided pictures for the Board of the existing access and of the existing land. He felt that access to the homes would be much less of an effect on neighboring homes than an actual town road would be. He read to the Board his outline of the variance criteria. (In file)

Public comment

Scott Hogan and attorney for the Durant’s spoke against the application in that the Durant’s property abuts one of the rite of ways and they consider it their side yard, they do not want traffic going thru their yard. They would like to see the property not developed. He continued to debate the grandfathered use of the property.

Sally Novell spoke against the development.

Cindy Stenmark also spoke against the development.

Tom Bonacorrisi spoke against the development and he also commented that duplex's could be built on the site as too, not just single family homes.

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 all has no** \_\_\_\_\_ 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 \_\_\_\_\_.

### **FINDINGS AND RULINGS**

After reviewing the petition, hearing all of the evidence, and by taking into consideration the personal knowledge of the property in question, the Board of Adjustment for the Town of Lee has determined the following findings of fact:

- 1) The variance will **all will not be** contrary to the public interest because: there are other alternatives he could do to ease the hardship.
- 2) Special conditions **do** \_\_\_\_\_ **not all** exist such that the literal enforcement of the ordinance results in unnecessary hardship. In deciding this criteria, you must decide whether:
  - a) The zoning restriction as applied to the property **interferes Tobin does not interfere John, Peter, and Dave** with the reasonable use of the property, considering the unique setting of the property and its environment because: it has frontage on two roads and has land next door, creating his own hardship by subdividing the parcel.
  - b) You may consider, although you are not required to make any specific findings, the following no dispositive factors:
    1. Whether the zoning restriction, as applied, interferes with the Landowner's reasonable use of the property, where reasonable use includes consideration of the landowner's ability to receive a Reasonable return on his investment;

2. Whether the hardship is a result of the unique setting of the property; and
3. Whether the landowner's proposed use would alter the essential Character of the neighborhood.

b) There **is all is no** fair and substantial relationship between the general purposes of the zoning ordinance and the specific restriction on the property because: has a lot, has the ability to access it, still has use of the property.

3) The variance **is Tobin is not John; Tobin; Peter** consistent with the spirit of the ordinance because: has a lot, nothing taken away, not perfect, he can do one building on one lot with an extra access.

4) By granting the variance, substantial justice **will Tobin will not Dave, John, Peter** be done because: not taking anything away, can develop, has one lot.

5) The value of surrounding properties **will \_\_\_\_\_ will not all** be diminished because: residential neighborhood, residential use.

John Hutton made a motion to **deny** the application for a Variance of the 2011 Lee Zoning Ordinance from Southeast Gravel Corp, Walter E. Cheney; President, is requesting a variance to Article V; Residential Zone, Section B; Lot Requirements, item number 2- Frontage, in that the applicant owns approximately 12. 29 acres (+/-) that has existing access from Newtown Plains Road and also an existing access from Pinkham Road. The applicant is request a variance to allow access from Pinkham Road of approximately 73 feet (+/-) where 250 feet of access is required, in order to allow for a subdivision of one (1) building lot of approximately 5.63 acres, which would leave the remaining parcel of approximately 5.86 acres to be used as another building lot utilizing the exiting "grandfathered" (so-called) access from Newtown Plains Road.

David Allen second.

Vote: all

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

MINUTES TRANSCRIBED BY:

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Caren Rossi, Secretary

MINUTES APPROVED BY:

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Jim Banks, Chairman

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David Allen

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John A. Hutton, III

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Peter Hoyt, Alternate

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Tobin Farwell