

**MINUTES OF THE MEETING  
LEE ZONING BOARD OF ADJUSTMENT  
Wednesday, March 20, 2016  
7:00 PM**

**MEMBERS PRESENT:** Jim Banks, Chairman; John A. Hutton; Tobin Farwell; Craig Williams, Alternate, Roy Wilson, Alternate (voted only on Take Five) and Peter Hoyt, Alternate.

**OTHERS PRESENT:** Robert Callioras; Perry Bryant; Joel Noel; George & Ellen Trojan; Robin Kasey; John & Sarah Dawson; Ronald Bird; Josh Dijoseph; and Caren Rossi, Planning/Zoning Administrator.

**Old Business**

**(Z1516-)**

**A continued application made by Ellen Trojan. The property is located on Osprey Lane and is known as Lee Tax Map # 29-02-0100. The applicant is requesting the following Variances & Special Exceptions to the of the 2015 Town of Lee Zoning Ordinance.**

**A Variance to Article XV, Section F-2 Wet Soils to allow the construction of a house to be located 27' + - (at its closest point) from wet soils where 75' feet is required.**

**A Variance to Article XV, F-1 Wet Soils to allow the construction of a septic system and associated items ns no closer than 73' + - where 125' is required.**

**A Special Exception to Article XV, F-1 Wet Soils to allow the construction of an access way, utility right-of way and associated items no closer than 27' + - where 75' is required.**

Tobin Farwell clerked.

George Trojan explained that he had Adam Fogg survey the property line between this lot and the Dawson's. He has stamped the plan. Everything as proposed meets the setbacks to this line. The septic distances are shown and marked on the plans too.

Joel Noel explained that he small pockets of wetlands are really just minor wet soils. The wetland of "value" is the wet area behind the house closer to the river and they are staying away from this. This small pocket of wet soils is very small just located in the middle the proposed development.

Jim Banks, Chairman asked what would happen to the water if we get a very large rainfall.

Joel Noel explained that the wet soils area works as an unmanaged rain garden. He did not see any evidence where it goes over the road, it is a very small watershed. It would seep back into the ground as there does not appear to be an outlet for this wet soils pocket.

Public comment

Perry Bryant spoke in favor of the application. He feels it is a positive plan, a very low impact. Another house will add to the dues to maintain Osprey Lane as it is a private road.

John Dawson spoke that he has gone over the plan and it seems correct and all ok to him.

Floor closed

John Hutton commented that he doesn't have any issues with the proposal. The applicant has done what the Board asked him to do. He provided the Board with a more complete set of plans.

Tobin Farwell commented that the complete plans were a great help.

Peter Hoyt made a motion to address all of the variance requests as one.

John Hutton second.

Vote: motion carried.

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 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.

**Tobin Farwell made a motion to grant the variance request for a Variance to Article XV, Section F-2 Wet Soils to allow the construction of a house to be located 27' + - (at its closest point) from wet soils where 75' feet is required. And a Variance to Article XV, F-1 Wet Soils to allow the construction of a septic system and associated items no closer than 73' + - where 125' is required. Subject to the following condition:**

**A foundation certification be required for septic and foundation.**

John Hutton second.

Vote: all, motion carried.

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 **does have all** 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 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** \_\_\_\_\_ **will not all** 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** \_\_\_\_\_ **will not all** be injurious, noxious or offensive and thus be detrimental to the neighborhood.
- 3) The use **will** \_\_\_\_\_ **will not all** 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.

**For Special Exceptions permitted under Article XV in the Wet Soils Conservation Zone:**

1. Has the Application been referred to the Conservation Commission and the Health Officer for review and comment as required by Article XV.E?  
Yes: all                      No: \_\_\_\_\_
2. If for street, road, access ways and utility rights-of-way, is the use essential to the productive use of land and is it located and constructed so as to minimize any detrimental impact of such uses upon the Wet Soils?

Yes: all                      No: \_\_\_\_\_

3. If for Water Impoundment, is it for a purpose that includes a multipurpose pond, wildlife pond or farm pond?

Yes: \_\_\_\_\_                      No: \_\_\_\_\_                      N/A

4. If for Fire Ponds, has the use been reviewed by the Lee Planning Board and Lee Fire Department?

Yes: \_\_\_\_\_                      No: \_\_\_\_\_                      N/A

5. If for an undertaking of a use not otherwise permitted in the Zone, has it been shown that the proposed use is not in conflict with any and all of the purposes and intentions listed in Article XV.A?

Yes: all                                      No: \_\_\_\_\_

**Tobin Farwell made a motion to grant the Special Exception to Article XV, F-1 Wet Soils to allow the construction of an access way, utility right-of way and associated items no closer than 27' + - where 75' is required.**

**John Hutton second.**

**Vote: all, motion carried.**

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

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**(Z1516-13)**

**KC Signs, is requesting a variance to Article XVII, Signs, Section C, 4-h to allow for an awning with a logo and writing of approximately 30' x 3' + - across the front of the existing building. The property is owned by Sovran Acquisition Limited Partnership, located on 44 Calef Highway and is known as Lee Tax Map #04-03-0300. This request is to the 2015 Zoning Ordinance**

Tobin Farwell clerked.

Robyn Casey explained that she is before the Board to seek relief for a canopy sign on the old Lee Lock It Inn building.

Caren Rossi explained that the size of a sign in our ordinance is the message bearing structure. In this case it is the entire canopy. Therefore the request is larger than the actual letters due to this ordinance. She read the definition of a sign to the Board.

***Size of a Sign:*** Means the total exposed surface area in square feet visible from any one point. It shall mean the outside dimensions of the message bearing structure. Where a sign is composed of fabricated letters attached or painted onto a wall, the size shall be calculated as twice the average letter height times the length of the message.

Jim Banks, Chairman asked for the calculations of all of the existing signage on the site.

Robyn Casey does not have that. She requested to continue the meeting to May 24, 2016 to get the information.

Peter Hoyt made a motion to continue the meeting to May 24, 2016 at 7pm so the applicant can do an entire site sign inventory.

Craig Williams second.

Vote: all, motion carried. Meeting continued to May 24, 2016 at 7pm.

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**(Z1516-16)**

**Applicants, Molly Darling and Robin Wunderlich, are requesting a variance to Article XVII, Signs, Section C, 5 a -f to for a building sign of approximately 48 + - sqf ft and the replacement of the existing single sided sign with a double sided sign 12 + - sq ft. per side. The property is owned by Take Five Properties LLC, located on 122 Mast Rd and is known as Lee Tax Map #13-11-0200. This request is to the 2015 Zoning Ordinance.**

Jim Banks, Chairman recused himself from the application. Tobin Farwell will be acting chairman and Roy Wilson will vote in Jims place.

John Hutton clerked.

Robin Wunderlich addressed the variance criteria that he provided with his application.

Caren Rossi explained that they are in everyone's packets. (In file)

Robin Wunderlich continue to explain that all of the signs will be the same design/logo as their website and business cards. As well as any flyers etc. that they put out. Assuming people will be looking for their business it will make it easily identifiable. This is a desitantion stop, so the sign will be for people to

know that they have arrived where they were going. They went thru the sizing of both signs using the United States Sign Council. He provided a copy of this for the Board. (In file) He explained that parallel sign is proven to be compromised to view. He explained that the book gives all sorts of cinereous of signage. The existing sign on that site is hard to read as it is facing the street not visible as you approach. The new sign will be visible from both directions.

Roy Wilson asked if they felt this would be an impulse stop for people.

Robin Wunderlich replied no, it is a destination for people. We want them to be able to know in a safe manner they have arrived.

Roy Wilson asked if it would be a place where they have repeat business.

Robin Wunderlich replied that they hope so.

Molly Darling explained that currently the sign is facing the road and you can't see it really at all. There is the turn for 155 right there and people aren't paying attention to the sign.

Tobin Farwell asked where on the site will they be placing the sign.

Molly Darling explained that as part of the planning board approval, they approved the location.

Robin Wunderlich explained the location as show on the plan. He explained that the sign is going on the building where the existing sign lights are which is where the taekwondo sign was once located. He explained that the size of the sign is very proportioned for the size of the windows and the building. He felt from an architectural standpoint it would be very proportionate.

Molly Darling replied that this sign will be the only sign on the building, the tenants sign will only be on the sign out front.

Tobin Farwell asked if the roadside sign will be lit?

Robin Wunderlich replied no, only the building sign will be lit with the existing gooseneck lights that have been used in the past for the other signs on the building.

Public comment

None

Floor closed

Tobin Farwell stated that they deal with a lot of signs around the circle, but this is far out.

Caren Rossi read what is allowed by the ordinance in this zone.

*5. Special Exception Signs: Shall be permitted in the Residential Zone for any business authorized by Special Exception or by Variance or Grandfathered in that zone. The following criteria shall apply:*

- a. Illumination shall be only by exterior white light and shall be only during normal business hours not to exceed 7:00 a.m. to 6:00 p.m. six (6) days per week.*
- b. Such sign shall be placed at least twenty (20) feet from the edge of the traveled way.*
- c. Such sign shall not exceed eight (8) square feet on each of two (2) sides;*
- d. Such sign shall be constructed of natural materials (such as wood, masonry, granite);*
- e. The top of such sign shall not be greater than eight (8) feet in height measured from the crown of the road.*
- f. Only one (1) such sign shall be permitted per lot.*

The Board members discussed how this application compares to what is allowed.

Tobin Farwell asked what other signs have been granted in the residential zone.

Caren Rossi explained that Kevin Crawford was here just in Feb. of this year and a variance was granted for 41 sq. ft. per side.

John Hutton commented but yes, that is Rt. 125 with a speed limit of 50 and they go 60. Here it is 40 and they go 50. We have been around this several times. And feels this is consistent. He feels it is a reasonable request.

Craig Williams feels it is a reasonable request.

Tobin Farwell agreed.



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 are not diminished. Yes majority
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship to applicant. 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 approve the application from applicants, Molly Darling and Robin Wunderlich, requesting a variance to Article XVII, Signs, Section C, 5 a -f to for a building sign of approximately 48 +/- sq. ft. and the replacement

of the existing single sided sign with a double sided sign 12 + - sq. ft. per side. The property is owned by Take Five Properties LLC, located on 122 Mast Rd and is known as Lee Tax Map #13-11-0200. This request is to the 2015 Zoning Ordinance.

Peter Hoyt second.

Vote: all, motion carried, request approved.

Tobin Farwell, Acting Chairman explained the 30-day appeal process to the applicant.

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**(Z1516-14)**

**Maureen Rich, Agent for Glenmere Village Association. The property is located on 7 Glenmere Road and is known as Lee Tax Map # 30-01-0018. The applicant is requesting a Variance to Article XXIII, #3 Non-Conforming Uses in that she wishes to reconstruct and expand an existing residence. The variance request is to the 2015 Town of Lee Zoning Ordinance.**

**(Z1516-15)**

**Maureen Rich, Agent for Glenmere Village Association. The property is located on 5 Ellis Rd and is known as Lee Tax Map # 30-01-0005. The applicant is requesting a Variance to Article XXIII, #3 Non-Conforming Uses in that he wishes to reconstruct and expand an existing residence. The variance request is to the 2015 Town of Lee Zoning Ordinance.**

Tobin Farwell clerked and read both notices into the record.

John Hutton made a motion to combine both applications as one. He feels they go hand in hand.

Tobin Farwell second.

Discussion: Jim Banks, Chairman commented that they are both on one lot.

Vote: all, motion carried.

Maureen Rich, secretary for Glen mere Village explained that they have two cottages that are both falling down and in much need of disrepair. They were originally summer camps that were born in the 40 & 50. They have no plans to build right now but they want to be able to tear them down and then rebuild at some point. If they tear them down without a variance, they only have a year to rebuild exactly what is there. All lots are a 110' x 110'. You must be a linear decent to the original descendants to be in the association.

Roy Wilson asked who can build in there.

Maureen Rich replied only a descendant to the original founders.

Jim Banks, Chairman asked what is the largest a home can be?

Maureen Rich replied it is 36' x 36'. Because they have no plans to rebuild, they are asking for the largest so they are covered and will not need to come back to the Board. One of the houses being torn down, 5 Ellis is 42' long. The new one will be smaller.

Peter Hoyt spoke of difficulty to get fire apparatus down in there because of the overgrown trees. Etc.

Maureen Rich said she would reach out to the fire chief to see if they can trim some trees to help this problem.

Public comment.

Ron Bird spoke against the application. He feels that becoming year round they diminish his property value. He is against a second story building too, it will be more visible for him from his property. Making it diminish his value more.

Maureen Rich explained that the first home was year round in 1950, the second in 1954, another in 1982 and in another in 1985. She further stated that Belle Lane intruded on Glenmere Village when it was built, not the other way.

Ron Bird stated he doesn't like the change, and the encroaching is making him feel uncomfortable.

Jim Banks, Chairman commented that he feels that it would increase his property value by rebuilding what was there and not leaving it the way it is which is inhabitable and very unsafe.

Tobin Farwell stated he can see what Mr. Bird is saying but thinks it would be better to clean it up.

Ron Bird stated he feels development that wasn't there is a concern.

Josh Dijoseph spoke with concerns of the process and why formal plans of the property aren't required.

Caren Rossi explained that past practice of this Board has allowed no formal drawings of Glenmere Village and or the lot lines of each individual lot.

Maureen Rich explained the locations and offered for them to come to her house and she would be happy to show them around.

Floor closed

John Hutton stated he is ok with the application but he isn't comfortable with 2 stories.

Jim Banks, Chairman asked how many with 2 stories?

Maureen Rich replied currently 2.

Jim Banks, Chairman and Tobin Farwell replied that they didn't have any issues with the 2 stories.

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 are not diminished. Yes-Pete; Craig; Tobin, majority John- no
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship to applicant. Yes Majority

**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.

Tobin Farwell made a motion to approve the requests from Maureen Rich, Agent for Glenmere Village Association. For a property located on 7 Glenmere Road, Lee Tax Map # 30-01-0018 and on 5 Ellis Rd, Lee Tax Map # 30-01-0005. The applicant is requesting Variances for both parcels to Article XXIII, #3 Non-Conforming Uses in that she wishes to reconstruct and expand an existing residence. The variance request is to the 2015 Town of Lee Zoning Ordinance. The building footprints are not to exceed 36’x36’, two stories in height.

Craig Williams second.

Vote: yes- Peter; Craig; Tobin

No- John

Motion Carried, variances granted.

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

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**(Z1516-17)**

**The applicant wishes to amend a previous decision which was granted on November 19, 2014 to allow the applicants, Robert and Barbara Callioras, 87 Calef Highway, known as Lee Tax Map #04-07-0500. A variance to the 2014 Lee Zoning Ordinance, Article VI, Commercial Zone (Zone C); section C-Land Requirements, number-3 Setback, in that the applicant is requesting a variance to allow various structures to include but not limited to a mobile kitchen, outside seating, product display area(s) and parking for a limited time on a temporary basis to be no closer than 25’ (feet +/-) to the right-of-way of Route 125 (Calef Highway) where 125’ (feet) is required and that if granted, a natural vegetative buffer zone shall not be required as specified in this section since this request is for a limited time on a**

**temporary basis of one year after planning board final approval. \*\*\*The planning board approval was granted on April 23, 2015, therefore the amended variance expires on April 23, 2016.**

**If the Board prefers to do a new request, the applications Robert and Barbara Callioras with an address of 87 Calef Highway, Lee NH, known as Lee Tax Map #04-07-0500 request a variance to the 2015 Lee Zoning Ordinance, Article VI, Commercial Zone (Zone C); section C-Land Requirements, number-3 Setback, in that the applicant is requesting a variance to allow various structures to include but not limited to a mobile**

**kitchen, outside seating, product display area(s) and parking for a limited time on a temporary basis to be no closer than 25' (feet +/-) to the right-of-way of Route 125 (Calef Highway) where 125' (feet) is required and that if granted, a natural vegetative buffer zone shall not be required as specified in this section since this request is for a limited time on a temporary basis as specified if granted.**

**Also note; This request is also for a temporary use and the time frame, if granted, shall be decided at this public hearing. The public should be aware that, the front setback to the right-of-way may be adjusted at the discretion of the Lee Zoning Board due to the existing conditions of this site, i.e. that the area for parking is open in nature and not well defined and that this request is for a limited time and temporary in nature.**

Robert Callioras explained that they are still actively trying to sell the property. They almost took on a partner to construct their building but decide they would like to remain family only. He is currently in the process of purchasing a restaurant in Maine that they have been leasing and that will allow them the capital to build something on the Lee site.

The Board discussed if they wished to amend the previous decision or act as a new request.

John Hutton wanted to act as a new request.

Craig Williams agreed.

Peter Hoyt commented he was fine with an amendment.

Tobin Farwell replied he was fine with the amendment.

Peter Hoyt made a motion to act on the amendment.  
Tobin Farwell second.  
Vote: yes, Peter; Tobin; Jim  
No- John; Craig

John Hutton commented that he is in favor of giving him renewal one last time, only this time more than a year as the process is lengthy to build a new site. He suggested a period of no more than 5 years.  
Others agreed.

John Hutton made a motion to amend the previous approval to expire on January 1, 2021.  
Peter Hoyt second.  
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

\_\_\_\_\_  
Tobin Farwell

\_\_\_\_\_  
Craig Williams, Alternate

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Peter Hoyt, Alternate

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Roy Wilson, Take Five Properties