

**MINUTES OF THE MEETING
LEE ZONING BOARD OF ADJUSTMENT
Wednesday, May 17, 2017
7:00 PM**

MEMBERS PRESENT: Jim Banks, Chairman (Not NH Solar Garden); John Hutton; Frank Reinhold, Alternate (NH Solar Garden only); Craig Williams, Alternate; Don Quigley, Alternate & Peter Hoyt, Alternate.

OTHERS PRESENT: Amber & Ben Lilyestrom; Toni Hartgerink; Dustin Morrill, Line Pro Land Surveying, LLC; Drew Tally; Bill Booth, Building Inspector and Caren Rossi, Planning/Zoning Administrator.

Jim Banks, Chairman asked who would like to not vote but be a back-up if need be?

Frank Reinhold volunteered to sit out of the vote tonight.

(Z1617-13)

An application from applicant Benjamin & Amber Lilyestrom 19 Caldwell Lane, Lee NH. Property is known as Lee Tax Map #11-02-700. The applicant requests a variance of the 2017 Lee Zoning Ordinance, Article XIV; Shoreland Conservation District, section C-b and/or Article XXIII, number-3, in that the applicant is proposing to expand/remodel/raze an existing dwelling that is within the Shoreland Conservation District where no permanent or temporary structures are allowed. Said expansion is shown on the submitted plan dated April 14, 2017.

Dustin Morrill explained the applicants are wishing to expand their home which will allow them to expand their family. The proposal is consistent with what has been issued to the other properties around the water. He has been to the conservation commission, they have sent a letter. The additional is not closer to the water than the existing house. The addition will be of a bedroom for another child and living space for the family to expand too. The existing deck will just be pushed forward. No side setback issues, just the pond setback. They love the lot and want to stay here.

Public comment

Amber Lilyestrom spoke and they love it here, her husband grew up in town and they want to stay raise their family here and grown old here.

Floor closed

Jim Banks, Chairman read the letter from the conservation commission into the record.

John Hutton commented that he felt the request was very consistent with the requests along the pond, didn't see any issues with it. They will follow best management practices set forth by the conservation commission.

Don Quigley asked if they will be adding another bathroom. He asked how big their current septic was.

Amber Lilyestrom explained it is a 2 bedroom house with a 4 bedroom septic design and they are only adding one bedroom.

Caren Rossi reminded everyone that they addressed the Findings of Facts in their application and copies are in the packets.

John Hutton made a motion to combine both requests into one.

Peter Hoyt second.

Vote: all, motion granted.

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.

John Hutton made a motion to grant the request from applicant Benjamin & Amber Lilyestrom 19 Caldwell Lane, Lee NH. Property is known as Lee Tax Map #11-02-700. The applicant requests a variance of the 2017 Lee Zoning Ordinance, Article XIV; Shoreland Conservation District, section C-b and/or Article XXIII, number-3, in that the applicant is proposing to expand/remodel/raze an existing dwelling that is within the Shoreland Conservation District where no permanent or temporary structures are allowed. Said expansion is shown on the submitted plan dated April 14, 2017. The applicant is to follow the conditions described in the letter from the Lee Conservation Commission dated May 17, 2017.

Peter Hoyt second.

Vote: all, motion carried.

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

(Z1617-14)

An application from applicant Drew & Betty Talley, 78 High Road, Lee NH. Property is known as Lee Tax Map #23-01-0200. The applicants requests a variance of the 2017 Lee Zoning Ordinance, Article V, B-#3, Setbacks, in that the applicant is proposing to construct a pool house, no closer than 32' + - to the front property line and a zero setback to the side conservation easement setback line.

Caren Rossi explained that she met with Mr. Talley a few months ago when he explained he wanted to build a pool house. The pool house meets the side setback to the property line, but when you look at the plans, it shows the side setback to the conservation easement line. When the easement was put on this property they did a plan merging what was originally 3 lots into one lot and delineating out the land not in easement. All shown on the submitted plan. But when the easement was recorded the plan was not, so the original 3 lots never got merged together so our records show 3 lots when in fact it should be 1. Mr. Talley recently completed a merger form and it has been recorded.

Drew Talley explained that they are putting in an in ground pool. The need a pool house for the items associated with a pool. The land around the house that is not in easement is very steep and slopes making it impossible to put a pool house in. The building will be no closer than the existing house, actually back a few feet. It will be very esthetically pleasing.

Public comment

Caren Rossi read a letter into the record from John Farrell, 125 High Rd.

Floor closed.

Caren Rossi reminded everyone that he addressed the Findings of Facts in the application and copies are in the packets

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.

- 6) Granting the Variance will not be contrary to the public interest. Yes majority
- 7) Granting the variance would be consistent with the spirit of the ordinance. Yes majority
- 8) In granting the variance, substantial justice is done. Yes majority
- 9) In granting the variance, the values of surrounding properties are not diminished. Yes majority
- 10) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship to applicant.
 - (A) Yes majority
 - B) 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.

Peter Hoyt made a motion to grant the application from applicant Drew & Betty Talley, 78 High Road, Lee NH. Property is known as Lee Tax Map #23-01-0200. The applicants requests a variance of the 2017 Lee Zoning Ordinance, Article V, B-#3, Setbacks, in that the applicant is proposing to construct a pool house, no closer than 32' +- to the front property line and a zero setback to the side conservation easement setback line.

Craig Williams second.

Vote: all, motion carried.

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

Rules of Procedure

Caren Rossi explained that she was in discussion with the towns' attorney regarding the recent change to the rules. It makes more sense to change the variance/special exception renewal to a 2 year period as opposed to 1. Also for clarification putting the effective date of the expiration. Also, we need to add the paragraph allowing outside review charges to go to the applicant.

The Board agreed with these changes and had no questions.

John Hutton made a motion to accept the changes to the Rules of Procedure

Peter Hoyt second.

Vote: all, motion accepted.

NH Solar Garden

Jim Banks recused himself and Frank Reinhold sat in as a voting member.

Caren Rossi read into the record a letter requesting an extension from NH Solar Garden (in file) requesting an extension to a previous variance granted for a solar garden.

The Board did not have any issues with this request.

Peter Hoyt made a motion to grant a 2 year extension to the variance granted. Extension will expire on May 17, 2019.

Frank Reinhold second.

Vote: all, motion granted to expire on May 17, 2019.

*Note for clarification for the record, this was requested after the variance lapsed because it is a new law and the Rules of Procedure needed to be adopted for the process. That is why the expiration date is different.

MINUTES TRANSCRIBED BY:

Caren Rossi, Planning & Zoning Administrator

MINUTES APPROVED BY:

Jim Banks, Chairman

John Hutton

Don Quigley, Alternate

Peter Hoyt, Alternate

Craig Williams, Alternate

Frank Reinhold, Alternate
