

**MINUTES OF THE MEETING  
LEE ZONING BOARD OF ADJUSTMENT  
Wednesday, August 23, 2017  
7:00 PM**

**MEMBERS PRESENT:** Jim Banks, Chairman; John Hutton; Frank Reinhold, Alternate; Shawn Banker, Alternate & Don Quigley, Alternate.

**OTHERS PRESENT:** Gerald Collins, Linda Kahn; Joe Bassett, Track Manager; Red & Judy MacDonald; Jim & Pixie Cummings; Jason White; and Caren Rossi, Planning/Zoning Administrator.

**(Z1718-1)**

**An application for a Variance to Article XXIII, Non-Conforming Uses, and/or Article V, Section A-Permitted Uses, in that the applicant, First Strafford Realty Trust (Lee USA Speedway), Jennifer MacDonald Trustee, requests to have regular Flea Markets on site from April 1 thru November 30. This request is to the 2017 Zoning Ordinance. The property is located at 380 Calef Highway and is known as Lee Tax Map#18-02-0000.**

John Hutton clerked.

Caren Rossi explained the history- several years ago they applied to the ZBA for a variance to have flea markets at the track. They are allowed to have them 5 times a year but limited to certain times. They would like to have them more often and more flexible times. I re noticed it as a new application as this one will override the other. If this gets approved tonight, they will need to go to the PB for site plan review.

Judy MacDonald stated that they would like to have the flexibility to have more flea markets. With the current restrictions it makes it very difficult for scheduling rain outs etc. They would like the flexibility of having more events to help utilize the facility more. Having more options makes it easier to schedule events as well.

Jim Banks, Chairman asked how far in advance they plan the events?

Joe Bassett stated they plan them out a few weeks in advance. The fire department requires a weeks' notice for all events.

Jim Banks, Chairman asked if the will be car related?

Joe Bassett replied no, but they do have an automobile specific one in November.

Frank Reinhold asked if they would have a race and a flea market in the same day?

Judy MacDonald replied no, that would not work.

Public comment

Gerry Collins- West Mill Pond Rd spoke with concerns with the loud speaker and announcement as well as there have been recent traffic jams on Rt. 125. He also stated that the 5 criteria for a variance has not been addressed.

Caren Rossi explained that they have been addressed as part of the application process and she read them into the record.

Linda Kahn- Tamarack Road spoke with concerns of the loud speakers as well as junk sales. She is worried that constant flea markets will attract and associate the area with types of people she doesn't want in her neighborhood.

Floor closed

John Hutton spoke stating he feels the loud speaker is the biggest issue.

Joe Bassett replied that they have never used it for any of the flea markets.

The Board discussed that if they could limit the number of event and not allow them to use the loud speaker that should address the concerns.

**The Board An application for a Variance to Article XXIII, Non-Conforming Uses, and/or Article V, Section A-Permitted Uses, in that the applicant, First Strafford Realty Trust (Lee USA Speedway), Jennifer MacDonald Trustee, requests to have regular Flea Markets on site from April 1 thru November 30. This request is to the 2017 Zoning Ordinance. The property is located at 380 Calef Highway and is known as Lee Tax Map#18-02-0000**

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:
    - o 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.

**B)**

- **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 a Variance to Article XXIII, Non-Conforming Uses, and/or Article V, Section A-Permitted Uses, in that the applicant, First Strafford Realty Trust (Lee USA Speedway), Jennifer MacDonald Trustee, requests to have regular Flea Markets on site from April 1 thru November 30. This request is to the 2017 Zoning Ordinance. The property is located at 380 Calef Highway and is known as Lee Tax Map#18-02-0000 be granted with the following conditions:

1. Limit to 1 events/days per year
2. No loud speakers to be used during the events
3. Breakdown and clean up to be completed the Monday at noon following the event.
4. No camping before, during or after the event.

Frank Reinhold second  
Vote: all, motion approved

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

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**(ZBA1718-02)**

An application from Jason White, Bonza Builders LLC, for a Variance to Article VIII, Open Space Residential Development, Section B-6 Buffer Zone, to allow a well 96' from the property line where 100' is required for a perimeter buffer. This request is to the 2017 Zoning Ordinance. The property is located at 32 Chestnut Way and is known as Lee Tax Map#01-07-1600.

John Hutton clerked

Caren Rossi explained that this is a cluster subdivision. As part of the cluster regulations, a 100' vegetated buffer is required around the entire tract of land. She read the regulation into the record.

**6. Buffer Zone:** *A buffer zone having a minimum depth of one hundred (100) feet shall be provided between any structure and the perimeter of the tract. The intent of the buffer zone shall be to provide visual vegetative screening from adjacent lots. Said buffer zone shall be comprised of vegetation, either natural or planted.*

*No dwellings, structures or service roads shall be permitted within the designated buffer zone.*

When they installed the well, they accidentally put it into the buffer zone by 4 feet. I can make them move the well but the only thing I can ask them to do is plant a tree in the area the well was in. The diameter is about 12" for the well. I explained to them if they would like to seek possibly relief, the abutters would potentially gain more than just one tree if granted. That is the intent of the ordinance, a buffer which this board can do as part of a conditional approval.

Jason White explained that he isn't going to throw anyone under the bus but the spot that the well is supposed to go, was marked out and the contractor didn't follow it. If you look at the approved septic system plan its very close to the setback line.

Public Comment

Pixie Cummins spoke with concerns about the tree cutting that has been done in the buffer zone.

Jim Cummings spoke with concerns of the history of the variances etc. that have been granted on the property.

Jim Banks, Chairman stated we are not here to discuss the history, just the request at hand.

Floor closed

Frank Reinhold stated if we make him move the well it will cost \$6,000-8,000, wouldn't the spirit of the ordinance be to plants more trees?

The other board members agreed and discussed the different options. Don Quigley suggested shade tolerant trees and the others 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.

Granting the Variance will not be contrary to the public interest.  
Yes majority

1. Granting the variance would be consistent with the spirit of the ordinance.  
Yes majority
  
2. In granting the variance, substantial justice is done. Yes majority
  
3. In granting the variance, the values of surrounding properties are not diminished. Yes majority
  
4. 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*

- No fair and substantial relationship exists between the purpose of the ordinance and its application to the property in question.

Or

- **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.**

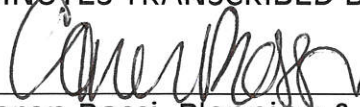
John Hutton made a motion to grant the request from Jason White, Bonza Builders LLC, for a Variance to Article VIII, Open Space Residential Development, Section B-6 Buffer Zone, to allow a well 96 + - from the property line where 100' is required for a perimeter buffer. This request is to the 2017 Zoning Ordinance. The property is located at 32 Chestnut Way and is known as Lee Tax Map#01-07-1600. Subject to the following conditions:

- Prior to a certificate of Occupancy, Shade tolerant trees be planted in a diameter of 15' radius of the well on the abutter side quadrant to Don Quigley and Caren Rossi satisfaction.


Frank Reinhold second.  
Vote: all, motion carried.

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

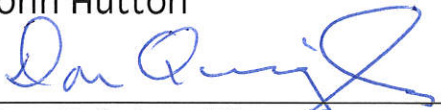
MINUTES TRANSCRIBED BY:

  
\_\_\_\_\_  
Caren Rossi, Planning & Zoning Administrator

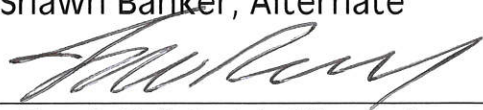
MINUTES APPROVED BY:

  
\_\_\_\_\_  
Jim Banks, Chairman

\_\_\_\_\_  
John Hutton

  
\_\_\_\_\_  
Don Quigley, Alternate

\_\_\_\_\_  
Shawn Banker, Alternate

  
\_\_\_\_\_  
Frank Reinhold, Alternate



**Agenda  
Town of Lee, NH  
Lee Zoning Board of Adjustment  
7 Mast Road  
Lee, NH 03861  
603-659-6783**

The Town of Lee, New Hampshire Zoning Board of Adjustment will conduct a public hearing on Wednesday, August 23, 2017 beginning at 7:00 PM at the Lee Public Safety Complex located at 20 George Bennett Road. The agenda is as follows:

7:00 Call to order

\*\*\*\*\*The Chairman may move the order of the items below at his discretion.

**NEW BUSINESS**

(ZBA1718-02)

An application from Jason White, Bonza Builders LLC, for a Variance to Article VIII, Open Space Residential Development, Section B-6 Buffer Zone, to allow a well 96' from the property line where 100' is required for a perimeter buffer. This request is to the 2017 Zoning Ordinance. The property is located at 32 Chestnut Way and is known as Lee Tax Map#01-07-1600.

(ZBA1718-01)

An application for a Variance to Article XXIII, Non-Conforming Uses, and/or Article V, Section A-Permitted Uses, in that the applicant, First Strafford Realty Trust (Lee USA Speedway), Jennifer MacDonald Trustee, requests to have regular Flea Markets on site from April 1 thru November 30. This request is to the 2017 Zoning Ordinance. The property is located at 380 Calef Highway and is known as Lee Tax Map#18-02-0000.

**Other Business**

**Adjournment**

POSTED AT THE LEE TOWN HALL, AND OFFICE OF PLANNING AND ZONING ON, FRIDAY, AUGUST 11, 2017 AT 1:00PM.

Sebago Sign Works. This is a decrease of approximately 7 +/- sq. ft. than what is now there. The property is located on 48 Concord Rd. and is known as Lee Tax Map #07-08-0100. This request is to the 2017 Zoning Ordinance.

(ZBA1718-05)

Berry Surveying & Engineering, representing Peter and Elaine Irene Smith, are requesting a variance to Article XI, B1 & B3. They are proposing to subdivide a building lot of 8.34 +/- acres from the original 16.01 +/- acre parcel leaving the 4 unit residential apartment building on 7.68 +/- acres where 20 acres is required. The request is to the 2017 Lee Zoning Ordinance. The property is located on 153 Stepping Stones Road, Lee NH and is known as Tax Map #10-01-00.

### **Other Business**

### **Adjournment**

POSTED AT THE LEE TOWN HALL, AND OFFICE OF PLANNING AND ZONING ON, FRIDAY, OCTOBER 26, 2017 AT 1:00PM.