

**MINUTES OF THE MEETING  
LEE ZONING BOARD OF ADJUSTMENT  
Wednesday, August 3, 2016  
7:00 PM**

**MEMBERS PRESENT:** Jim Banks, Chairman; Tobin Farwell (not Greg Gentile); Philip Sanborn; John Hutton; Frank Reinhold, Alternate (not Mark Davis) and Peter Hoyt, Alternate (not Plumer Homestead).

**OTHERS PRESENT:** Fred Schultz; Toni Hartgerink, Lee Conservation Commission; Mark Davis; Greg Gentile; Gail Ulrich; Tim Bulger; James Dowhan; Patricia Jenkins and Caren Rossi, Planning/Zoning Administrator.

Jim Banks, Chairman and the Board determined who would be voting.

Tobin Farwell clerked.

**(ZBA1617-01)**

**The applicant, Plumber Homestead LLC, agent Fred Shultz, is requesting a special exception to Article V, Residential Zone, Section D to allow for a Bed and Breakfast in the existing home. The property is located on 67 Demeritt Ave. and is known as Lee Tax Map #19-06-0100. This request is to the 2015 Zoning Ordinance.**

Fred Schultz explained he has recently bought the property and he wants to convert the house only into a Bed & Breakfast. He provided the Board with his findings and a plan in his application. (In file) He is currently renovating the barn but he is not turning that into the Bed & Breakfast.

Jim Banks, Chairman asked where the additional parking will be?

Fred Schultz replied it will be at the lower barn and there will be a sign at the driveway that states "Left Hand Turn Only" this will help eliminate the traffic down Demeritt Ave and send it out to Rt. 152/125.

Public comment

Patricia Jenkins spoke as an abutter and an old resident of the home. She spoke in favor of the application as she was very pleased to have the home redone and saved from disrepair. Also having spoken with members of the historical society and heritage commission members, people are in favor with the application.

Tim Bulger – 57 Demeritt Ave spoke in favor of the application. He felt it was a low impact and low noise business, the barn is his only issue and that is not under consideration at this time. He is happy the house is getting fixed up and feels that Fred has always been true to his word and he feels this will also improve the neighborhood.

Tim Dowhan -60 Demeritt Ave spoke in favor of the application. He too feels Fred has always been a man of his word, low impact use and will be nice to have the property fixed up.

Floor closed

Jim Banks, Chairman asked if food will be cooked there.

Fred Schultz replied it is going to be a self-serve B & B.

Tobin Farwell asked how many occupants will be there?

Fred Schultz replied that there are 6 rooms so that is the max.

Caren Rossi explained that if the use is approved tonight, the next step is the planning board. Also, the fire codes require a sprinkler system for the use. Also part of the planning board review.

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 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.

**For Special Exceptions permitted under Article V:**

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 V of the Zoning Ordinance.

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 as the planning board will continue to address these issues.**

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 majority**

4. Refuse and service areas; **Yes majority**

5. Control of drainage and erosion; **NA**

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.

**NA**

In addition, the following criteria have been satisfied:

1. A landscaped buffer zone must be maintained between the property which is the subject of the Special Exception application and any residential lot line.

**NA**

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

**Yes Majority**

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

**Yes Majority**

Tobin Farwell made a motion to grant the request from applicant, Plumber Homestead LLC, agent Fred Shultz, is requesting a special exception to Article V, Residential Zone, Section D to allow for a Bed and Breakfast in the existing home. The property is located on 67 Demeritt Ave. and is known as Lee Tax Map #19-06-0100. This request is to the 2015 Zoning Ordinance.

John Hutton second.

Vote: all, application approved.

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

\*\*\*\*\*

**(ZBA1617-03)**

**The applicant, Greg Gentile is requesting a variance to Article V, Section A, Permitted Uses to allow for the sale of automobiles. The property is located on 134 Concord Road and is known as Lee Tax Map #08-02-0700. This request is to the 2015 Zoning Ordinance.**

John Hutton clerked.

Greg Gentile explained that he would like to just have nostalgic and or muscle cars. Not large scale. 1 car at a time at the end of the driveway 1-2 cars in the shop at a time. No outside repairs, repairs will be limited to cars being sold. Small sign that complies with zoning. The surrounding area is commercially used.

Jim Banks, Chairman asked if he will be cutting any trees.

Greg Gentile replied no. Just cleaning up the property.

John Hutton suggested he not limit himself to just Safety Kleen as the company, to just use a licensed cleaning service.

Greg Gentile agreed.

Public Comment

Gail Ulrich spoke with concerns of expanding the commercial zone into the rural area. He sees octopus development from the circle. He is concerned of future expansion.

Public comment floor closed.

Jim Banks, Chairman stated he feels that if approved, the ZBA can put restrictions on the approval that will address the abutters concerns.

John Hutton commented that he feels that the applicant has put a lot of restrictions on himself.

Caren Rossi stated that residents can sell one car at a time that is there's on their property now. If this application is approved, he will proceed to the planning board for site review.

Greg Gentile stated he understands his neighbors' concerns and he will have no impact on him at all.

Jim Banks, Chairman asked how he does the advertising.

Greg Gentile replied that it is mostly online, websites and auctions.

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 approve a variance to Article V, Section A, Permitted Uses to allow for the sale of automobiles. The property is located on 134 Concord Road and is known as Lee Tax Map #08-02-0700. This request is to the 2015 Zoning Ordinance. Subject to the following conditions:

1. No more than 5 cars at one time.
2. No more than 1 car at the end of the driveway
3. Remaining auto's will be kept in garage
4. Repairs will be limited to cars being sold
5. No outside repairs will be done on property
6. Small sign at end of driveway 18" x 24"
7. Hours of operation will be limited to 9am to 5pm Saturday and Sunday and by appointment only Monday thru Friday.
8. Any fluids being changed will be picked up by a license cleaning service with all logs on premises with proper paperwork.

Peter Hoyt second.

Vote, majority, motion carried, application approved.

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

\*\*\*\*\*

**(ZBA1617-02)**

**The applicant, Mark Davis is requesting a variance to Article XV, Section F-2 to allow for the construction of a greenhouse from wet soils 30' + - where 75' is required. The property is located on 301 Calef Highway and is known as Lee Tax Map #17-04-0000. This request is to the 2015 Zoning Ordinance.**

Tobin Farwell clerked.

Mark Davis explained that this building will be used to grow plant material. It will allow them to better manage material and make production better. It is called a cold house as there is not any heat in it. They have reviewed the conservation commissions concerns and will address them in the project.

Tobin Farwell asked about the access to the new building.

Mark Davis stated there is an existing access now as they use that area now. It is naturally elevated area about 30-40 feet and then it drops off.

John Hutton asked how they will secure the building in ledge?

Mark Davis stated he wasn't sure, and was a little concerned about that.

Frank Reinhold asked if it will be removed in the winter?

Mark Davis replied it will be left up year round.

Public comment

Toni Hartgerink spoke in favor of the application.

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 Yes majority not diminished.
- 5. Literal enforcement of the provisions of the ordinance would result (A)Yes Majority in an unnecessary hardship to applicant.

**B) 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

John Hutton made a motion to grant the request from applicant, Mark Davis requesting a variance to Article XV, Section F-2 to allow for the construction of a greenhouse from wet soils 30' +- where 75' is required. The property is located on 301 Calef Highway and is known as Lee Tax Map #17-04-0000. This request is to the 2015 Zoning Ordinance.

Tobin Farwell second.

Vote: majority, motion carried application approved.

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

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

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

\_\_\_\_\_  
Philip Sanborn

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

\_\_\_\_\_  
Peter Hoyt, Alternate

---