

**LONDONDERRY ZONING BOARD OF ADJUSTMENT
268B MAMMOTH ROAD
LONDONDERRY, NH 03053**

MINUTES FROM 06/19/19 MEETING

The meeting was called to order at 7:00 p.m. Members introduced themselves. The following members were present: Neil Dunn, Chair; Jim Tirabassi, Clerk; Suzanne Brunelle, member; Bill Berardino, member; Brendan O'Brien, alternate member and Mitch Feig, alternate member. Also, in attendance were Laura Gandia, Associate Planner; and Beth Morrison, Recording Secretary. Chairman Dunn reviewed the hearing procedures.

I. APPROVAL OF MINUTES

J. Tirabassi made a motion to accept the May 15, 2019, minutes as presented.

The motion was seconded by S. Brunelle

The motion was granted, 4-0-0, with N. Dunn abstaining.

II. REPORT BY TOWN COUNCIL – N/A

III. PUBLIC HEARING OF CASES

A. CASE NO. 5/15/19-3: Request for two variances from LZO 5.14.B to allow a six feet fence in the front yard where only four feet are allowed and to allow that six feet fence to encroach 34.5 feet into the 40 feet front setback, Two Lonchester Way, Map 11 Lot 1, Zoned AR-1, Zachary Martineau and Gina Rauch (Owners & Applicants) – continued from the May 15, 2019 meeting

J. Tirabassi read the case into the record noting it was continued from the May 15, 2019 meeting and stating the applicant had requested it to be continued again. N. Dunn appointed B. O'Brien as a voting member for this case.

J. Tirabassi made a motion to continue CASE NO. 5/15/19-3: Request for two variances from LZO 5.14.B to allow a six feet fence in the front yard where only four feet are allowed and to allow that six feet fence to encroach 34.5 feet into the 40 feet front setback, Two Lonchester Way, Map 11 Lot 1, Zoned AR-1, Zachary Martineau and Gina Rauch (Owners & Applicants) until July 17, 2019.

B. Berardino seconded the motion.

The motion was granted, 5-0-0. The applicant's request for a continuance was granted.

B. CASE NO. 6/19/19-1: Request for a variance from LZO 4.2.1.3.C.2 to encroach seven feet into the 15 feet side setback for the installation of a shed, 56 Hunter Mill Way, Map 18 Lot 13-39, Zoned AR-1, Bojan & Maria Grgic (Owners & Applicants)

J. Tirabassi read the case into the record noting previous zoning cases. Chairman Dunn appointed B. O'Brien a voting member for this case. Bojan Grgic, owner of 56 Hunter Mill Way addressed the Board. He reviewed the five criteria for the granting of the variance:

- (1) The granting of the variance is not contrary to the public interest: because it will not threaten the health, safety or welfare of the general public or alter the essential character of the neighborhood.
- (2) The spirit of the ordinance is observed: because it will not alter the essential character of the neighborhood.
- (3) Substantial justice is done: because the loss to the applicant would be more than any gain to the general public.
- (4) Values of surrounding properties are not diminished: because it will not alter the essential character of the neighborhood.
- (5) There is no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the property is unique as the backyard consists of many hills and a drainage pipe that runs through the backyard making it difficult to build a shed. He stated that the proposed use is a reasonable one.

Chairman Dunn asked if the Board had any questions. S. Brunelle asked for the size of the shed. B. Grgic said it was going to be 10x18. N. Dunn asked if the owner could build an 11x10 foot shed to not encroach. B. Grgic said that yes technically but mentioned flooding concerns.

Chairman Dunn asked for public input and there was none.

The Board closed public input and began its deliberation.

- (1) The variance would not be contrary to the public interest: because it would not alter the essential character of the neighborhood.

- (2) The spirit of the ordinance would be observed: because it would not alter the essential character of the neighborhood.
- (3) Substantial justice would be done: because the loss to the applicant is greater than any gain to the public.
- (4) Values of the property would not be diminished: because it would not alter the essential character of the neighborhood.
- (5) There is no fair and substantial relationship that exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: because the property is unique as it is in a special subdivision and has a drainage pipe and culvert running through the backyard making it difficult to place a shed. The proposed use is a reasonable one.

J. Tirabassi made a motion in CASE NO. 6/19/19-1 to grant a variance from LZO 4.2.1.3.C.2 to encroach seven feet into the 15 feet side setback for the installation of a shed, 56 Hunter Mill Way, Map 18 Lot 13-39, Zoned AR-1, Bojan & Maria Grgic (Owners & Applicants) with the condition that the shed not exceed 10x18 and extend no more than seven feet into the side setback.

S. Brunelle seconded the motion.

The motion was granted, 5-0-0. The applicant's request for a variance was granted with conditions.

C. CASE NO. 6/19/19-2: Request for a variance from LZO 4.2.1.3.C.1 to encroach 37 feet into the 40 feet front setback for the construction of a porch, 11 Ash Street, Map 10 Lot 69, Zoned AR-1, Stephen DeFrancesco, Jr. (Owner & Applicant)

J. Tirabassi read the case into the record noting no previous cases. Chairman Dunn appointed M. Feig a voting member for this case. Stephen DeFrancesco, owner of 11 Ash Street addressed the Board. S. DeFrancesco gave some background to the Board regarding his case. He told the Board that he purchased the property about five years ago and wanted to update the farmer's porch, as it was in bad condition. He said that he spoke to a code enforcement officer about what he wanted to do with the porch and at that time, and was informed that he did not need a permit. He explained that when he started the project, the porch actually fell off the house, and he would now need to rebuild the porch in its entirety. At this time, the code enforcement officer informed him that he would need a variance to build a new porch as it is no longer attached to the house and not grandfathered.

He then reviewed the five criteria for the granting of the variance:

- (1) The granting of the variance is not contrary to the public interest: because it will not threaten the health, safety or welfare of the general public or alter the essential character of the neighborhood.
- (2) The spirit of the ordinance is observed: because it will obstruct any neighbors or alter the essential character of the neighborhood.
- (3) Substantial justice is done: because the loss to the applicant would be more than any gain to the general public.
- (4) Values of surrounding properties are not diminished: because it will not alter the essential character of the neighborhood.
- (5) There is no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because a homeowner should be able to rebuild a porch that had already existed on the home. The house was built prior to the zoning ordinance and the house/porch is already in the 40 feet front setback. He stated that the proposed use is a reasonable one.

Chairman Dunn asked for questions from the Board. J. Tirabassi asked how far the porch comes out in front of the house. S. DeFrancesco said he wanted to build it out six feet, but it originally was eight feet. He said that he would put the stairs to the side.

Chairman Dunn asked for public input and there was none.

The Board closed public input and began its deliberation.

- (1) The variance would not be contrary to the public interest: because it would not alter the essential character of the neighborhood.
- (2) The spirit of the ordinance would be observed: because it would not alter the essential character of the neighborhood.
- (3) Substantial justice would be done: because the loss to the applicant is greater than any gain to the public.
- (4) Values of the property would not be diminished: because it would not alter the essential character of the neighborhood.
- (5) There is no fair and substantial relationship that exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: because the property is unique as it was built prior to the zoning setbacks and will increase safety for the residents of the house. The proposed use is a reasonable one.

J. Tirabassi made a motion CASE NO. 6/19/19-2 to grant a variance from LZO 4.2.1.3.C.1 to encroach 37 feet into the 40 feet front setback for the construction of

a porch, 11 Ash Street, Map 10 Lot 69, Zoned AR-1, Stephen DeFrancesco, Jr. (Owner & Applicant) in with the following conditions:

1. The depth of the porch not be greater than six feet; and
2. the stairs be on the driveway side.

M. Feig seconded the motion.

The motion was granted, 5-0-0. The applicant's request for a variance was granted with conditions.

II. Other business: N/A

Adjournment:

J. Tirabassi made a motion to adjourn at 7:52 p.m.

M. Feig seconded the motion.

The motion was granted, 5-0-0. The meeting adjourned at 7:52 p.m.

RESPECTFULLY SUBMITTED,



CLERK

TYPED AND TRANSCRIBED BY Beth Morrison, Recording Secretary.

APPROVED (X) WITH A MOTION MADE BY Brendan O'Brien, SECONDED BY Suzanne Brindle 3 0 - 0.