

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

DATE: OCTOBER 21, 2015

CASE NO.: CASE NO. 10/21/2015-3

APPLICANT: THE GLYNN FAMILY TRUST
27 HIGH RANGE ROAD
LONDONDERRY, NH 03053

LOCATION: 27 HIGH RANGE ROAD; 5-37; AR-I

BOARD MEMBERS PRESENT: JIM SMITH, CHAIRMAN
JACKIE BENARD, VOTING MEMBER
NEIL DUNN, VOTING MEMBER
DAVE PAQUETTE, CLERK

ALSO PRESENT: RICHARD CANUEL, SENIOR BUILDING INSPECTOR/ZONING
ADMINISTRATOR/HEALTH OFFICER

REQUEST: A VARIANCE TO ALLOW A DETACHED GARAGE WITHIN THE FRONT
SETBACK WHERE A MINIMUM OF 40 FEET IS REQUIRED BY SECTION
2.3.1.3.C.

PRESENTATION: D. PAQUETTE READ THE CASE INTO THE RECORD. TWO PREVIOUS
CASES. NO LETTERS. PAGES _____ ARE ATTACHMENTS TO REFERENCE.

JIM SMITH: Who will be presenting?

JOAN GLYNN: Good evening, I'm Joan Glynn and I live at 27 High Range Road.

JIM SMITH: Okay, I'll go through the spiel again. We only have four members. You need to get three positive
votes out of the four versus the normal five.

JOAN GLYNN: Okay.

JIM SMITH: We always give everybody an opportunity if they wish to continue to the next month, and it's
your choice.

JOAN GLYNN: Okay, I think I'll continue.

JIM SMITH: Continue?

46 JOAN GLYNN: Yes.

47

48 JIM SMITH: Okay.

49

50 JOAN GLYNN: I need to replace the structurally unsound garage with a new garage. The current garage built
51 in 1938 is approximately 25 feet from the property line and approximately 38 feet from the street. It does
52 not meet the current 40 feet set back. The new garage...the variance will not be contrary to the public
53 interest. The new garage will be the same size 20x20 and occupy the same footprint as the current garage. It
54 will not alter the essential character of the neighborhood, nor will it impede with the safety of the
55 neighborhood. The spirit of the ordinance is observed. The new garage will align with the home...an antique
56 cape built in approximately 1795 is as the old garage does now. It will not add congestion to the roadway, or
57 the neighborhood. Substantial justice is done. If you look at one of the pictures (see Attachment #1), you'll
58 see there's an underground propane line running approximately 10 feet behind the current garage to the
59 underground propane tank which is located about 50 feet from the right rear of the garage. Relocating the
60 line and the tank will be an expensive undertaking. To the left of the garage is a five foot fence, and moving
61 the garage back to meet that setback would also mean relocating the access gate to the fence. The values of
62 surrounding properties are not diminished. Keeping the garage where it currently stands will maintain the
63 historic character of this part of High Range Road and will not diminish the values of surrounding properties.
64 Actually, the new garage will probably add values. School House #2 sits diagonally across from the property,
65 and neither that house or the barn attached with it meet the current setback and I believe it's the Severance
66 barn. There's a barn on the next property. Its right next door to my home and it's even closer to the street.
67 No fair and substantial relationship exists between the general public purposes of the ordinance provision
68 and the specific application of the provision to the property. This home has been on this property for over
69 200 years. The existing garage has been there for almost 80 years and is in line and next to the house.
70 Moving the garage further back to meet the ordinance would cause me to spend a significant amount of
71 money. Moving it in another place on the property would be moving it further from the home and removing
72 apple trees. The proposed use is a reasonable one. The new garage will be the same size and on the same
73 footprint as the current garage and B, this property is long and narrow. The house doesn't meet today's
74 setback of 40 feet and changing the location of the garage to meet the ordinance would take away the charm
75 of one of Londonderry's oldest homesteads.

76

77 JIM SMITH: Questions?

78

79 NEIL DUNN: I would have never guessed you had a propane tank there. So, you're maintaining the exact
80 same footprint?

81

82 JOAN GLYNN: The garage...

83

84 NEIL DUNN: A better foundation though?

85

86 JOAN GLYNN: ...with a foundation, yeah. All I wanted was garage door opener. That's all I wanted.

87

88 [Laughter]

89

90 NEIL DUNN: Or, a remote starter right?

91
92 [Laughter]
93
94 NEIL DUNN: Do you know what the total depth of your lot is? Like you said, it is long, and runs along High
95 Range? Any idea, it doesn't...?
96
97 JOAN GLYNN: What the width of it is?
98
99 NEIL DUNN: ...front to back property?
100
101 JOAN GLYNN: I don't...I think at one point I did.
102
103 NEIL DUNN: I guess it's not that big of a deal.
104
105 JOAN GLYNN: It's very long and very narrow, except when I go to mow it. So, it's not that narrow.
106
107 [Laughter]
108
109 NEIL DUNN: Then the long part takes over. Jim, do you know if there's something about...especially a
110 building of this age just maintaining the same footprint anyway? Haven't we run in...
111
112 JIM SMITH: Well...
113
114 NEIL DUNN: ...kind of she...
115
116 JIM SMITH: ...I hate to bring this up.
117
118 NEIL DUNN: ...because it goes back to the total value of what's been removed type thing?
119
120 JIM SMITH: Well, if you really wanted to play the game what you could do is lift the building...build a
121 foundation under it...
122
123 NEIL DUNN: Drop it back down and then...
124
125 JIM SMITH: Drop it down...
126
127 NEIL DUNN: ...then fix the sore spot.
128
129 JIM SMITH: ...then take part of the building down and rebuild that. Take another part of the building down
130 and rebuild that and essentially just rebuild what's there.
131
132 JOAN GLYNN: Right.
133
134 JIM SMITH: And, you wouldn't need a variance, because you just...
135

136 NEIL DUNN: Fixing.
137
138 JOAN GLYNN: And, that's what was happening and the garage fell off the jack and now it has to be
139 destroyed. It cannot be fixed.
140
141 NEIL DUNN: That's kind of what I was getting to, but I now sometimes footprints and...
142
143 [Overlapping comments]
144
145 JOAN GLYNN: That's what I was hoping for, yeah...
146
147 JIM SMITH: Okay, so...
148
149 [Overlapping comments/laughter]
150
151 JOAN GLYNN: Wow yes, wow is right.
152
153 JIM SMITH: You took that approach, but luck wasn't with you.
154
155 JOAN GLYNN: No it was not, nope it wasn't. it's a lot more expensive this way.
156
157 JIM SMITH: Okay, when it says 25 feet from the property line, are you talking about the front property line?
158
159 JOAN GLYNN: Yes, yes.
160
161 JIM SMITH: Okay.
162
163 JOAN GLYNN: I forgot the back property line, but the front property line yes.
164
165 JIM SMITH: Okay, and you want to...
166
167 JOAN GLYNN: Keep it right there.
168
169 JIM SMITH: ...keep it at the 25 feet?
170
171 JOAN GLYNN: Yes.
172
173 JIM SMITH: Okay, where's the 38 come in?
174
175 JOAN GLYNN: It's from...when I was looking at the...
176
177 NEIL DUNN: From the street?
178
179 JOAN GLYNN...the street, yeah it's from the street when I was looking at the map. I was surprised that it was
180 that different from the street to where the property was.

181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225

JIM SMITH: Okay. There's a difference between the edge of pavement and the actual edge of a property line.

JOAN GLYNN: Oh, so the yellow on that map (see Attachment #2)?

JIM SMITH: Well, that's a line that's kind of been added by the computer type thing and it's not really a surveyed line should we say.

JOAN GLYNN: Oh, okay.

JIM SMITH: So, it's an approximate at best. We had another case not too long ago and we were talking about a sign and we basically said you can't really go by that line and we suggested that they really needed to survey it, and I think when they did, I noticed the sign had been moved back about 4 feet...3 feet because where the sign had been was in fact in the State right of way...

JOAN GLYNN: Oh.

JIM SMITH: ...So, it's...have you had this surveyed?

JOAN GLYNN: No, I inherited this house about 6 years ago, so I haven't had anything surveyed.

JIM SMITH: So, what we are looking at is an educated guess at best so...

JOAN GLYNN: There is a fence there, I don't know if that...if they need a...

JIM SMITH: Well, the other complication is High Range is a road by...what do they call it...rite of passage versus say a newer road which is laid out and there's an actual deed that defines where the road is. Technically, I think if you go back and look at that type of a road your piece of property actually you own the property up to the center line of the road.

JOAN GLYNN: Oh.

JIM SMITH: I mean, you can't do anything with it, and one of the things that kind of kicks in...say there was a tree that was on the edge of the right of way and they wanted to chop it down they would have to give you that tree if you wanted it for firewood, or whatever. They couldn't just take it away because the fact...the way...but that's because of the road being laid out as a road of rite of passage, and of course that road is...

NEIL DUNN: As old as the house?

JIM SMITH: No.

[Laughter]

JIM SMITH: It goes back to when they laid out...

226
227 JACKIE BENARD: Older.
228
229 JIM SMITH: ...these towns.
230
231 [Overlapping comments]
232
233 NEIL DUNN: Yeah, absolutely.
234
235 JIM SMITH: Okay, having said all of that and we got way off the track.
236
237 DAVE PAQUETTE: So, if this property meets the actual property lines of at property go to the center line of
238 the road?
239
240 JOAN GLYNN: I don't need to be here?
241
242 JIM SMITH: Well, no...no, it does and it doesn't...
243
244 DAVE PAQUETTE: Yeah.
245
246 JIM SMITH: ...you know...
247
248 DAVE PAQUETTE: I'm just wondering if this is out of question now if her property goes to that center line?
249
250 JIM SMITH: No, because...
251
252 DAVE PAQUETTE: Or, is she within the 40 feet?
253
254 JIM SMITH: ...you're still looking at the edge of the right of way.
255
256 DAVE PAQUETTE: Okay.
257
258 JACKIE BENARD: Okay.
259
260 JIM SMITH: You know, so if you...I'm surprised...okay, you inherited it so there wasn't any mortgage
261 transaction or anything like that?
262
263 JOAN GLYNN: Well, I did get a mortgage. I had to because there was a reverse mortgage and that's a whole
264 other story.
265
266 JIM SMITH: Well, I mean they didn't ask for a...
267
268 JOAN GLYNN: No, the mortgage company...
269
270 JIM SMITH: ...plot plan?

271
272 JOAN GLYNN: ...no.
273
274 JIM SMITH: Which is kind of unusual? Usually to protect their own interest they like to have it...
275
276 JOAN GLYNN: I had to get a new...there wasn't a clean title, so I had to get a new deed before the...
277
278 JIM SMITH: Yeah, okay. I think...does anyone have any questions? I think this kind of...because of the history
279 of it and so forth and so on kind of meets all of the various...
280
281 JACKIE BENARD: Sort of like the beginning of the Town, the inception.
282
283 DAVE PAQUETTE: What was it 1780 something?
284
285 JIM SMITH: Actually, what you've got here is a pre-existing non-conforming situation.
286
287 JACKIE BENARD: Um, hmm.
288
289 JIM SMITH: And, if you had been successful in raising it and doing that you would have been home free.
290
291 JOAN GLYNN: I wouldn't be here.
292
293 JIM SMITH: That didn't work out.
294
295 [Laughter]
296
297 JIM SMITH: So, I think make it legally should...I'm agreeable to the variance. Does anybody got any
298 objections? Okay, as far as the five points of law...Okay, any comment from the audience...positive/negative?
299 Okay. Is anyone here for the 4th case? Okay, okay...was wondering.
300
301 NEIL DUNN: We even lost the reporters.
302
303 [Laughter]
304
305 **DELIBERATIONS:**
306
307 JIM SMITH: Okay, I would say, rather than go through all the five points. Why don't we just say this is a very
308 historical thing and substantial justice is to allow the existence a replacement of a historical building?
309
310 NEIL DUNN: In the same footprint though.
311
312 JIM SMITH: In the same footprint.
313
314 JOAN GLYNN: It's going to look the exact same.
315

316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357

JIM SMITH: Yeah.

NEIL DUNN: I'm good with it, so are you coming to the Board and closing it?

JIM SMITH: It looks like the printer was running out of ink when they made these forms.

DAVE PAQUETTE: Okay.

JIM SMITH: Somebody want to make a motion?

DAVE PAQUETTE: Sure, Mr. Chairman, I'd like to raise a motion in regards to Case 10-21-2015-3, I'd like to raise a motion to grant the requested variance that all five points are met and due to the historical heritage of the area with the restriction that it is the same footprint and design as the existing building that it's replacing.

JIM SMITH: Okay, do I have a second?

NEIL DUNN: I second it.

JIM SMITH: All those in favor?

ALL: Aye.

JOAN GLYNN: Thank you.

JACKIE BENARD: Have a good evening.

[Overlapping comments]

RESULTS:

THE MOTION TO GRANT CASE NO. 10/21/2015-3 WAS APPROVED, 4-0-0.

RESPECTFULLY SUBMITTED,



DAVE PAQUETTE, CLERK

TYPED AND TRANSCRIBED BY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT SECRETARY.

APPROVED (FEBRUARY 17, 2016) WITH A MOTION MADE BY N. DUNN, SECONDED BY J. BENARD AND APPROVED 5-0-0.