

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

DATE: MARCH 19, 2008

CASE NO.: 3/19/2008-1

APPLICANT: CRAIG A. AND MARY CHEVALIER  
25 COTEVILLE ROAD  
LONDONDERRY, NH 03053

LOCATION: 25 COTEVILLE ROAD, 13-82, AR-I

BOARD MEMBERS PRESENT: MARK OFFICER, ACTING CHAIR  
YVES STEGER, VOTING ALTERNATE  
BARBARA DILORENZO, VOTING ALTERNATE  
LARRY O'SULLIVAN, CLERK

REQUEST: AREA VARIANCE TO ALLOW A CORNER OF A PROPOSED GARAGE TO BE 7.7 FEET FROM A SIDE PROPERTY LINE WHERE A MINIMUM OF 15 FEET IS REQUIRED.

PRESENTATION: CASE NO. 3/19/2008-1 WAS READ INTO THE RECORD WITH NO PREVIOUS CASES LISTED.

MARK OFFICER: Who will be presenting for the applicant?

MARY CHEVALIER: That's me, Mary Chevalier. [Inaudible].

MARK OFFICER: You'd probably be more comfortable if you sit. Okay, so you heard my explanation regarding the members of the Board. So, you would like to continue?

MARY CHEVALIER: I'll take my chance with the four (4), yeah.

MARK OFFICER: Okay. Alright, great. Alright, go ahead. You can just start by explaining what it is that you're requesting.

MARY CHEVALIER: What I'm requesting is, basically, a variance from the fifteen (15) foot offset from a property line. I actually live on the Cote homestead on Coteville Road and a hundred and sixty (160) years ago, property line are more like a lightning bolt, so, we would like to build a, probably, twenty four (24) by thirty (30) foot garage next to our house, by our driveway and if we wanna do that, we would come within seven and a half (7.5) feet from one corner to my neighbor, Ed Ball's property line. But it would not run the whole property line. That way, that would just be

purely one (1) corner. The other corner would be twenty three (23) feet away from that property line because it is not a parallel property line.

MARK OFFICER: Okay. Alright, we do ask the applicant's to go through the five (5) points of law. You could just read it as is or just state it in your own words as you see fit. And then we'll have some questions for you, probably.

MARY CHEVALIER: Fair enough. Facts supporting the request is, you know, it would not diminish the surrounding property values because it would actually improve our, you know, the value of our home. It would create a, you know, an appropriate and better appearance in the neighborhood. It would not be unreasonable. We don't believe it would be contrary to the public interest because it's not near any existing buildings, walkways or active areas. It would not block or disturb any views. Any special conditions that would create an unnecessary hardship...we're looking for a variance basically because it is an irregular, angled property line. We would like to build a square building but the angles of our property line would interfere with maintaining the fifteen (15) foot offset consistently. The benefit would be achieved...it can't really be achieved by some other method reasonably because we would like our garage to be near our driveway and if we can't put it near the driveway, then it's gonna be in the middle of the front lawn. So this is, you know, the only property line that would be close by. The only other option would be build more of a trapezoid shaped garage and that's also not desirable to us. We have discussed this matter with our neighbor, Ed Ball, who is the property owner who would be most impacted by this and he has given us a verbal and not made any, you know, letters to the Zoning Board also saying that he would have any issues with building within the fifteen (15) feet. We feel it would do substantial justice because we would be able to construct an aesthetically pleasing building, you know, that would enhance our neighborhood appearance and not adversely impact any of the abutters. We don't feel this is contrary to the spirit of the ordinance because there's no negative impact to any neighbor and due to the proximity of the structures on the abutting lots, the overall neighborhood density would remain the same. There's no abutting structures within a hundred (100) feet of the proposed structure. So, we would not be, you know, building right on top of any other neighbor who's there. That's all I've got.

MARK OFFICER: Okay. Alright, thank you. Any questions from the Board?

LARRY O'SULLIVAN: Yup.

MARK OFFICER: Larry?

MARY CHEVALIER: Okay.

LARRY O'SULLIVAN: Had you considered taking the proposed garage and moving it closer to Coteville Road by seven (7) feet or eight (8) feet?

MARY CHEVALIER: You'd be eating into my driveway if you did that.

LARRY O'SULLIVAN: Okay. Now, the issue is here, if there is a reasonable alternative, right? And that's where I'm headed is right towards that because that, to me, by looking at the diagram that you had given...

MARY CHEVALIER: Mm-hmm.

LARRY O'SULLIVAN: ...is a reasonable alternative.

MARY CHEVALIER: Well, I mean, I just spent a chunk of change paving my driveway for the first time ever that it's had a paved driveway, so it would completely interfere, there's trees and, you know, horticulture growing in the center of that driveway, so if I move it forward seven (7) feet, then I've cut my driveway in half, so instead of having a circular driveway, my driveway turns into a "Y," which, you know, is not a particularly smooth way of getting in and out for traffic and if I had to do that and repave any part of my driveway, then I'm gonna be cutting down trees to, you know, to move it.

MARK OFFICER: Okay. Anything else, Larry?

LARRY O'SULLIVAN: That's all I have.

MARK OFFICER: Any other questions from the Board? So, this is a two (2) bay garage?

MARY CHEVALIER: Yes.

MARK OFFICER: Okay. Alright, and it's attached to the house, I see?

MARY CHEVALIER: Yes.

MARK OFFICER: Okay.

MARY CHEVALIER: Like I said, we tried to move it over as far as possible so that, you know, it would not be...

MARK OFFICER: Okay.

MARY CHEVALIER: ...any further over.

MARK OFFICER: So what you're saying is, at one (1) point it's seven (7) feet.

MARY CHEVALIER: Correct.

MARK OFFICER: Okay. It's not...and that...so the side of the garage is not parallel to the property line.

MARY CHEVALIER: No.

MARK OFFICER: Okay.

MARY CHEVALIER: Correct. Like I said, the other corner is twenty three (23) feet off, you know, if you look at that map.

MARK OFFICER: Right. Okay. Now, I'm looking at the aerial map...

MARY CHEVALIER: Mm-hmm.

MARK OFFICER: It looks like there was, maybe at one time or maybe now, from your driveway, it looks like there's a driveway going into the other lot?

MARY CHEVALIER: There's not anymore. That's when we paved our driveway. Again, it's those old, crazy property lines. There used to be, if you went further down, there was a driveway that went out that Eddy Ball uses for access, back access for his truck and for his business there and in the old days, there was a cut through and the school bus actually used to cut through. We used to have a full sized school bus come down Coteville, go up Eddy's driveway, cut across, cut into our driveway and come down and when I had children, that became a safety issue for my kids. So we asked the school not to turn there, that's why we have a little bus on our street now, so that they can back up safely and we cut that off and cleaned up our driveway so that it's round and kind of landscaped there. So there is no cut through. That is an old, you know, an old, you know...it used to cut through in the old days.

MARK OFFICER: Mm-hmm.

MARY CHEVALIER: But it hasn't done that for probably about eight (8) years or so ago, there has not been any pass through there.

MARK OFFICER: Okay. And...

LARRY O'SULLIVAN: That's not really a right of way, then, is it? No right of way there?

MARK OFFICER: It's not...

MARY CHEVALIER: Not that I know of. I...

MARK OFFICER: Sounds like it's a, I guess you'd call it a right of passage...

MARY CHEVALIER: Kind of, because the Town used to come dump a load of gravel every couple years at the bottom of my driveway where I had a big 'ca-chunk' from the bus going through, so...

MARK OFFICER: Okay.

MARY CHEVALIER: No, I don't think there was any official right of way. It was just all family.

MARK OFFICER: Okay. And to that property, Eddy Ball's property, I guess you referred to it...

MARY CHEVALIER: Mm-hmm.

MARK OFFICER: Oh, I see it here, there is no structure nearby.

MARY CHEVALIER: No.

MARK OFFICER: Not by a long shot.

MARY CHEVALIER: No, not by a long shot.

MARK OFFICER: Okay. Alright, any other questions before I open it up to the public?

BARBARA DILORENZO: No, I don't have any.

MARK OFFICER: Okay. Is anybody speaking in favor of this request? Okay, seeing none, anybody opposed or having questions? Alright, seeing none, I'll bring it back to the Board. Any other questions? Okay. I just have one. Have you considered a one (1) bay garage? If you were to do a one (1) bay garage, would that meet the...?

MARY CHEVALIER: We probably would just not build.

MARK OFFICER: Mm-hmm.

MARY CHEVALIER: You know, it's...a family of four (4), it's, you know, it's more desirable, so if we went to one (1) bay, most likely we would just not build at all.

MARK OFFICER: Okay. Okay. When was your house built, do you know?

MARY CHEVALIER: Eighteen forties (1840's).

MARK OFFICER: Eighteen forties (1840's).

MARY CHEVALIER: Yeah. I went to the historical committee meeting for...yeah, it's 1840's.

MARK OFFICER: Okay. Alright, I have no other...

MARY CHEVALIER: I will say, you know, I live in the old Cote neighbor...you know, homestead. It's a lot of Cotes and Balls still living on that...

MARK OFFICER: Mm-hmm.

MARY CHEVALIER: ...and I always say, I have my own historical commission right on my street. Any babe who was born in my house walks by and gives me the thumbs up, so, you know, from a historical neighborhood perspective, they're typically in approval of what's going on.

MARK OFFICER: Okay. And so the irregular angled property lines, which you refer to, is probably due to the fact of the age of your house and the age of the property...

MARY CHEVALIER: Exactly.

MARK OFFICER: ...which predates...and it predates zoning.

MARY CHEVALIER: Exactly, because where Eddy's property is, there used to be an old post and beam barn there, so I'm guessing that those property lines probably went off the corner of whatever barn was there in the 1950's, I think, they ripped it down but I'm guessing. Yeah, there was some chicken coop or barn that was there at the time that they based those offsets from when they drew up the property lines.

MARK OFFICER: Okay.

MARY CHEVALIER: Okay?

MARK OFFICER: Alright. Thank you.

MARY CHEVALIER: Thank you.

MARK OFFICER: Okay, the Board will take it under advisement. I forgot to mention this, but after we hear each case, the Board will deliberate. At times while we deliberate, we do not take any further input from the public and once we're done deliberating, we'll vote on the case.

#### DELIBERATIONS:

MARK OFFICER: So, case number one (1). Why don't we walk through the five (5) points. This is a area variance. So, (A), the proposed use would not diminish surrounding property values. How do people feel about that?

YVES STEGER: I don't see how putting a garage would change the value of any property around.

MARK OFFICER: Alright.

LARRY O'SULLIVAN: But the issues is, Yves, is...

MARK OFFICER: Well, let's get to that.

LARRY O'SULLIVAN: ...is seven (7) feet.

MARK OFFICER: Yeah. We'll get to that. So, yeah, I think they met that. Granting the variance would not be contrary to the public interest. What the applicant stated is that it's not near any buildings, walkways or active areas, would not block or disturb any views. Any comments? Okay. Alright, so, (C), special conditions. An area variance is needed to enable the applicant's proposed use of the property, given the following special conditions. The applicant noted irregular angled

property lines, it was also noted as part of the record the age of the house and the age of the property which predates zoning, as special conditions, okay? Personally, I think that's fair.

YVES STEGER: Actually, I...yeah.

MARK OFFICER: We've always given consideration to houses and properties that have predated zoning and this lot is quite irregular.

YVES STEGER: Mm-hmm. No doubt about it.

MARK OFFICER: Yeah.

BARBARA DILORENZO: Yeah, 'cause if that was a straight line from one side to the other, we wouldn't be having the issue of the seven (7) feet.

MARK OFFICER: Yeah. Right. Yeah. Okay. Yeah, I mean, when I read this before the meeting, I saw 'seven (7) feet,' I said, 'wow, that's pretty close.' It's supposed to be fifteen (15).

YVES STEGER: Mm-hmm.

MARK OFFICER: But it's only seven (7) feet at one single point.

BARBARA DILORENZO: Mm-hmm.

MARK OFFICER: So...Larry? Do you have any comment on that or...?

LARRY O'SULLIVAN: I think my question was answered sufficiently.

MARK OFFICER: Okay.

LARRY O'SULLIVAN: You know, the expense that's involved with the seven (7) foot difference is not reasonable, in my opinion. What I am concerned about is that if there's a new driveway and now there's a new garage, planning was pretty bad and they're asking, really asking for the Board to make up for a problem that they created themselves. That is really what the issue is. Because if the driveway was seven (7) feet closer to the front of the house, they'd have room for the garage today. And I think that it's not a legitimate use of the Zoning Board of Adjustment to ask to make up for a mistake that they made.

MARK OFFICER: Okay. Alright. I hear your point but...

LARRY O'SULLIVAN: I can be convinced otherwise.

MARK OFFICER: Yeah, I mean, the fact that it's a garage as opposed to the house makes it less, it's more benign of a use, a garage. But I still look at the irregular lot lines and the fact that it predates zoning.

LARRY O'SULLIVAN: That's the overriding factor is that the lot lines have I don't know how many angles there are there. There's at least four (4) on that one side nearest the garage.

MARK OFFICER: Yeah.

LARRY O'SULLIVAN: So it's...that's a very forgiving...

MARK OFFICER: Mm-hmm.

LARRY O'SULLIVAN: ...a good excuse, as far as I'm concerned, a wide and forgiving excuse.

MARK OFFICER: Yeah.

YVES STEGER: I looked at the data and the pictures that, the photographs that were taken in 2005, which is a long time before any work they did now...

LARRY O'SULLIVAN: Mm-hmm.

YVES STEGER: ...there is a circular driveway, even at that time. There is a big tree in the middle of it. Actually, there is already some kind of a...I think it's a car or a structure that is in the picture and if you look at, you know, I don't really see...on the other side, there are other trees and you're getting too close to a well, so you wouldn't be able to do it on the other side. They cannot put a garage in any other place that isn't at least touching, somehow, the driveway. And you can't put it lower, you're gonna have to put it on the north side of the driveway, whatever you do, and then you probably are gonna be in front of the windows of that house, so, I don't even see if there was any possibility to do it beyond doing, you know, a single car garage and a family of four (4), I don't think that's something we wanna entertain.

LARRY O'SULLIVAN: I see your point.

MARK OFFICER: As usual, the Professor convinced me of any doubt I might have had. Okay. (D), granting the variance would do substantial justice. So, the applicant mentioned that they want to create an aesthetically pleasing building addition that would enhance the neighborhood appearance as well as their own house, so, that's fairly cut and dry. I'm not too worried about that. Does anybody have any comments on that? Okay. And the last one is not contrary to the spirit of the ordinance. Certainly there's no negative impact to any neighbor, particularly given the proximity of the structure to any other buildings and the lot to the south, I guess it would be, is quite large to begin with.

YVES STEGER: Mm-hmm.

LARRY O'SULLIVAN: The ordinance is written so that we would avoid crowding.

MARK OFFICER: Mm-hmm.



LARRY O'SULLIVAN: And I don't see how this would be, in this instance, with their property lines the way they are, somebody wouldn't very easily be able to build on the opposite side of their property line within a good distance...

YVES STEGER: Mm-hmm.

MARK OFFICER: Yeah.

LARRY O'SULLIVAN: ...more than seven (7) or fifteen (15) feet, so...

MARK OFFICER: Right and like we said, it's seven (7) feet at one (1) single point.

YVES STEGER: Yup.

MARK OFFICER: Yeah. If it was parallel to the property line, which would be impossible for this lot, it would be another story.

LARRY O'SULLIVAN: Mm-hmm.

MARK OFFICER: Okay. Alright, so I think...anybody have any other comments?

BARBARA DILORENZO: No, I...

MARK OFFICER: Okay. I'll entertain a motion on case number one (1).

LARRY O'SULLIVAN: I make a motion to approve case one (1) as presented.

MARK OFFICER: Okay. Do I have a second?

BARBARA DILORENZO: I'll second it.

MARK OFFICER: Alright, motion was made by Larry and seconded by Barbara. Those in favor, say 'aye.'

YVES STEGER: Aye.

LARRY O'SULLIVAN: Aye.

BARBARA DILORENZO: Aye.

MARK OFFICER: Aye. Those opposed? Alright, motion carries, four (4), zero (0).

RESULT: THE MOTION TO GRANT THE AREA VARIANCE AS PRESENTED WAS APPROVED, 4-0-0.

RESPECTFULLY SUBMITTED,

LARRY O'SULLIVAN, CLERK

TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

**APPROVED APRIL 16, 2008** WITH A MOTION MADE BY LARRY O'SULLIVAN, SECONDED BY BARBARA DILORENZO AND APPROVED 4-0-2 (NEIL DUNN & VICKI KEENAN ABSTAINED AS THEY HAD NOT ATTENDED THE MARCH 19, 2008 MEETING).