

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

**MINUTES FROM 04/18/18 MEETING**

The meeting was called to order at 7:00 p.m. Members introduced themselves. The following members were present: Jacqueline Benard, Vice Chair; Jim Tirabassi, Clerk; Suzanne Brunelle, member; Allison Deptula, alternate member and Brendan O'Brien, alternate member. Also, in attendance was Beth Morrison, Recording Secretary. Vice Chair Benard reviewed the hearing procedures. Vice Chair Benard appointed A. Deptula and B. O'Brien as a voting members.

I. APPROVAL OF MINUTES

**J. Tirabassi made a motion to accept the March 21, 2018 minutes as presented.**

**Motion was seconded by B. O'Brien.**

**Motion was granted, 3-0-2, with S. Brunelle and A. Deptula abstaining.**

II. REPORT BY TOWN COUNCIL – N/A

III. PUBLIC HEARING OF CASES

**A. CASE NO. 4/18/18-1: Request for a variance from LZO 2.3.1.3.C.3 to encroach 12 feet into the 15 feet rear setback for the construction of a shed, 54 Hunter Mill Way, Map 18 Lot 1340, Zoned AR-1, Eric & Michelle Moraros (Owners & Applicants)**

J. Tirabassi read the case into the record noting no previous cases. Eric Moraros introduced himself to the Board noting that the record stated the side setback but in fact the variance is for the rear setback. E. Moraros explained the reason for his request for a variance is because his lot is very hilly and the area he has proposed for the shed is the flattest and largest area he can build upon on his lot. He informed the Board that he had pictures and a plot map of his property where the shed is proposed to be built. He brought up the pictures and plan to the Board, as the Board noted this information was not in their packet. Vice Chair Benard noted the plot plan to be Exhibit 1 and the pictures as Exhibit 2 for the record. E. Moraros reviewed the plot plan with the Board noting the shed to be on the backside of his property and up against wooded conservation land that cannot be built upon. He noted that his abutting neighbor will not be able to see his shed as he will build a privacy fence to shield the shed. J. Tirabassi asked the size of the shed. E. Moraros stated it was 10 feet wide and 16 feet deep. J. Tirabassi asked what the rise and run or pitch of his yard is. E.

Moraros stated that he was not sure, but thought it would be 5 feet. He noted that last year he had fill brought in to try and lessen the incline, but even with the fill, it is too steep to build on.

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

- (1) The granting of the variance would not be contrary to the public interest: because it would not harm the health, safety or welfare of the general public.
- (2) The spirit of the ordinance would be observed: because he believes this request is consistent with the essential characteristics of the neighborhood.
- (3) Substantial justice is done: because the gain to the individual to have a shed is not greater than the loss to the public.
- (4) Values of surrounding properties are not diminished: because again the shed will not alter the essential characteristics 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 house was built on a hill and the only area that is flat enough for a shed is in the rear setback. He stated he feels it is a reasonable use to have a shed on a residential lot.

Vice Chair Benard asked the Board if they had any questions. Vice Chair Benard asked how big his lot is. E. Moraros stated his lot was 0.5 acres and then another 0.5 acres of common land within the development. B. O'Brien asked for more clarification on why E. Moraros thought this would not alter the essential characteristics of the neighborhood. E. Moraros stated that the shed will be on the backside of his property out of sight and when someone were to drive through the neighborhood it will not be seen. J. Tirabassi asked who was going to build his shed. E. Moraros stated that a company by the name of Murray Sheds was. B. O'Brien asked if E. Moraros had asked Murray Sheds if a shed could be built on the hill. E. Moraros stated that the shed would have to be built on cinder blocks stacked on top of one another and to make it level the higher the stacking the less stable the shed would be. J. Tirabassi stated that in his opinion, he did not think the shed would have to be built on cinder blocks and could be built with piers being sunk into the ground for support. E. Moraros stated that was not what the company had told him and would need to research J. Tirabassi's suggestion. B. O'Brien asked if where there were woods next to his house if the developer was planning on building another house. E. Moraros stated that it was common land and no plans for another house. Vice Chair Benard noted that E. Moraros had not provided any explanation of the shed and offered the applicant the chance to come back with information on the shed at the next meeting, so there would be no doubt as to exactly what he was proposing on building. E. Moraros stated that he knew all the information regarding the shed and asked how this pertained to the request for the variance in relation to the setback rule. Vice Chair Benard stated that usually there is information regarding the shed, specifically the size, what it would be constructed out of and how it would be secured on the

property with the application, but would take his testimony tonight as the information. J. Tirabassi stated that he would really like to know what the drop was in the front and back of his yard to be sure of other options. S. Brunelle stated that in her opinion, she did not have any problem voting on the information offered tonight.

Vice Chair Benard asked for public input and there was none.

The Board closed public input and began its deliberations as follows.

- (1) The variance would not be contrary to the public interest because it will not threaten the health, safety or welfare of the general public or alter the essential characteristics of the neighborhood.
- (2) The spirit of the ordinance would be observed as it will not alter the essential characteristics of the neighborhood.
- (3) Substantial justice would be done as the possible harm to the general public outweighs the loss to the applicant.
- (4) Values of the property would not be diminished as the essential character of the neighborhood would not change.
- (5) There is no fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property because the property is limited by a slope in the backyard and the size of the lot. The proposed use is a reasonable one because it is reasonable to want a shed on your property.

**J. Tirabassi made a motion to grant the variance in CASE NO. 4/18/18-1 from LZO 2.3.1.3.C.3 to encroach 12 feet into the 15 feet rear setback for the construction of a shed, 54 Hunter Mill Way, Map 18 Lot 1340, Zoned AR-1, Eric & Michelle Moraros (Owners & Applicants) with the followings comments and restrictions:**

**1. The shed not be larger than 10 feet deep x 16 feet wide.**

**A. Deptula seconded the motion.**

**The motion was granted, 4-0-1, with J. Tirabassi abstaining. The applicant's request for a variance was granted.**

**B. CASE NO. 4/18/18-2: Request for a special exception under LZO 3.12.1 for a family daycare business as a home occupation, 33 West Road, Map 2 Lot 38-2, Zoned AR-I, Daniel & Maria Arias (Owners) and Maria Arias (Applicant)**

J. Tirabassi read the case into the record noting no previous zoning cases. Maria Arias introduced herself to the Board. M. Arias stated that she was one of the owners of 33 West Road and thought that she met all the requirements to have a special exception for a family daycare at her residence. She noted that there would be no change in the characteristics of the neighborhood and there would be no large renovations to accommodate her request. She stated that the business would occupy 25% or less of the normal living area. She stated that there would be no adverse light, noise or smell coming from the daycare and it would not affect or disturb her neighbors. She stated that the traffic would not change as her property is on the corner of West Road and Sunset Road with her driveway off Sunset Road, so it would not impede the flow of traffic on West Road. She pointed out that she wishes to build a fence for the children to play outside in the backyard and is going to install the fence this weekend. She explained that she received a visit from the state regarding licensing as well as the fire department and everything is up to code. She stated that the daycare would be run 5 days a week, Monday through Friday, from 7 a.m. to 7 p.m. She concluded her presentation and welcomed questions from the Board.

Vice Chair Benard asked for questions from the Board. A. Deptula asked how many children would be at the daycare. M. Arias stated she will have 6 children full-time and 3 children part-time after school. A. Deptula asked what the part-time hours would be. M. Arias stated that she thought it would be mostly after school. Vice Chair Benard asked what the ages of the children would be. M. Arias stated that per the state licensing she can have 2 infants and the rest can be ages from 1 to 5 years old. J. Benard asked about the fence. M. Arias stated that it would be 3.5 feet high and the state requires 50 feet per child, which would be approximately 700 SF. J. Tirabassi asked how she will separate the business from the house. M. Arias stated that there is a door to go up the stairs to the rest of the house, and there will be a gate at the other part of the basement to separate the business. J. Tirabassi asked if both Maria and Daniel Arias would be working at the daycare. M. Arias stated it would be only her at this point and eventually she would like her husband to join her. J. Tirabassi asked how she would take a child to the bathroom having no one else to help her. M. Arias stated that the space is wide open allowing her to be able to supervise the children and help a child in the bathroom. Vice Chair Benard stated that the bathroom was not included in the floor plan that was used to determine the percentage the business would take up and asked S. Brunelle to calculate it. S. Brunelle did and stated that it still met the requirements.

Vice Chair Benard asked for public input.

Abutter Chris Kania, 29 West Road, addressed the Board and stated he was in favor of the request.

Sherry Farrell, Four Hancock Drive, addressed the Board in favor of the special exception. She stated that she personally knew this family and supported the request for the special exception. She stated that they were very involved in the community and it would be an added bonus to have their business in town.

The Board closed public input and began its deliberations as follows. The Board was in consensus that the applicant met the requirements for the special exception as evidenced by the application. The Board had a concern regarding the fence not being built before the special exception was granted and wished to include it in the comments.

**J. Tirabassi made a motion in CASE NO. 4/18/18-2 to grant the special exception under LZO 3.12.1 for a family daycare business as a home occupation, 33 West Road, Map 2 Lot 38-2, Zoned AR-I, Daniel & Maria Arias (Owners) and Maria Arias (Applicant).**

**S. Brunelle seconded the motion.**

**The motion was granted, 5-0-0. The applicant's request for the special exception for a home occupation was granted.**

**II. Communications and miscellaneous: None**

**III. Other business: None**

**J. Tirabassi made a motion to adjourn at 08:10 p.m. B. O'Brien seconded the motion.**

**The motion was granted, 5-0-0. The meeting adjourned at 08:10 p.m.**

RESPECTFULLY SUBMITTED,

  
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CLERK

TYPED AND TRANSCRIBED BY Beth Morrison, Recording Secretary.

**APPROVED (X)** WITH A MOTION MADE BY JT, SECONDED BY JB, 5-0-0.