

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

DATE: AUGUST 21, 2013

CASE NO.: 8/21/2013-1

APPLICANT: BRIAN MICCICHE
59 PERKINS ROAD
LONDONDERRY, NH 03053

LOCATION: 59 PERKINS ROAD; 15-51-6; AR-I

BOARD MEMBERS PRESENT: JIM SMITH, CHAIR
LARRY O’SULLIVAN, VOTING MEMBER
JAMES TOTTEN, VOTING ALTERNATE
NEIL DUNN, CLERK

REQUEST: VARIANCE TO ALLOW A STORAGE SHED ACCESSORY STRUCTURE WITHIN
THE 40 FOOT FRONT SETBACK AS RESTRICTED BY SECTION 2.3.1.3.3.

PRESENTATION: At the opening of the meeting, the Chair announced to all applicants that with only four
Board members in attendance, they would have the opportunity to request a continuance.

Case No. 8/21/2013-1 was read into the record with no previous cases listed.

BRIAN MICCICHE: Good evening. Brian Micciche, 59 Perkins Road.

JAMES SMITH: You understand the implication of only having the four people?

BRIAN MICCICHE: I mean, what am I going to do? I waited a month and a half for this and what am I going to
do? You know?

JAMES SMITH: Well, I wish...

BRIAN MICCICHE: I hear you.

JAMES SMITH: ...we could do something different, but...

BRIAN MICCICHE: That’s what it is, you know?

JAMES SMITH: That’s what it is at this point.

BRIAN MICCICHE: Right. I’m requesting a variance to build my shed in my front yard. As you can see by the
pictures, I kind of live on a hill. I don’t really have a flat spot. So I’ll just read what I have. The variance will

47 not be contrary to public interest due to the fact that there will be no obstruction of view to any of my
48 neighbors, as it poses no obstruction to any cars driving up or down Perkins Road. The spirit of the ordinance
49 would be observed because there are no health issues or safety concerns since I'm only building a shed within
50 40 feet of my front property line. My shed will resemble a red barn, approximately 12 x 16. Substantial justice
51 would be done because I would have a shed for the purpose of storing my lawn tractor, my snow blower, any
52 my motorcycle. The public would lose nothing. And I would also like to position the shed in such a manner
53 that would help maintain privacy into my backyard. I anticipate a lot more traffic due to the housing that is
54 going in directly across the street from my house. And also due to it being cost efficient, I would like to place
55 the shed in my driveway where I do not have appropriate frontage. Since my property is on a hill, the only flat
56 spot where I can place it is in my driveway. It would be inconceivable to push my lawn mower up a hill in the
57 winter. The values of the surrounding properties would not be diminished. I would be removing the trailer I
58 currently store items in, which I consider an eye sore, not only to me, but I'm sure to my neighbors. Since the
59 shed will look like a barn, it would fit in and enhance the surroundings of my property. The literal
60 enforcement of this ordinance would result in unnecessary hardship since it would be more practical than a
61 garage, better than a tent carport, and since I'm trying to use my property as efficient and symmetrical as
62 possible, meaning the size, position and even the color would work, not only with my house, but it would also
63 look like it belongs in the neighborhood since there is a farm directly across the street. By placing the shed at
64 the opposite end of my driveway would pose an issue for access to my backyard and I would not have
65 anywhere to put grapples of wood. Since I heat with a stove, I need the other flat spot on my upper level of
66 my yard for that purpose. Should I describe the pictures to you or...is that how that works?
67

68 LARRY O'SULLIVAN: No, we can see them.

69
70 BRIAN MICCICHE: Alright.

71
72 LARRY O'SULLIVAN: They are the same ones...do you have anything additional?

73
74 BRIAN MICCICHE: I don't, but I just have...I wrote comments for each group of pictures. If you had any
75 questions, I could discuss them because I have it written down if you have any questions about that.
76

77 JAMES SMITH: Approximately how far back from the street line would be the...?

78
79 BRIAN MICCICHE: From the street line would be about 12 feet, 15 feet. Somewhere in that time zone.
80

81 LARRY O'SULLIVAN: This is how big a shed?

82
83 BRIAN MICCICHE: It's 12 x 16.

84
85 LARRY O'SULLIVAN: And you are a little downhill there?

86
87 BRIAN MICCICHE: I'd say a little [laughs].
88

89 LARRY O'SULLIVAN: Because I've been driving by, Mr. Micciche. I've been trying to figure out 'where in
90 heavens name can you put it?'
91

92 BRIAN MICCICHE: The only spot I have, sir, is when you drive by my house, in that front corner on the left, it
93 still allows me access in and out of my driveway, but if I put it at the other end of the driveway, I have no room
94 to get into my backyard. I have no room to put wood when I have it delivered, so I'm kind of at a loss here.
95
96 JAMES SMITH: Any other...Neil?
97
98 NEIL DUNN: Richard, do we have any requirements for footings on sheds of a certain size and is this within the
99 requirement?
100
101 RICHARD CANUEL: That size shed would not require any footings. But because that shed does not meet the
102 exceptions in our ordinance for what is considered a structure, they would be required to meet the setbacks.
103
104 LARRY O'SULLIVAN: That's not going to obstruct your view leaving the driveway?
105
106 BRIAN MICCICHE: No, sir. It's back far enough that I have ample room to pull out, look both ways, go back in.
107
108 LARRY O'SULLIVAN: Yeah, it's tough to see from the drawing, so that's why I brought up. But do you have an
109 approximation, Richard, or any type of a drawing that is on this lot now or...? I mean, 14 feet...
110
111 BRIAN MICCICHE: 12 x 16?
112
113 LARRY O'SULLIVAN: Yeah, 12 to 15 feet from the roadway for a 12 x 16 shed. I mean, there might be sight
114 distance issues there someplace. But there's 12 feet. That's a car, right? A car length.
115
116 RICHARD CANUEL: Sure.
117
118 LARRY O'SULLIVAN: Can I ask where you got the overheads from? The overhead pictures? Because...
119
120 BRIAN MICCICHE: Through my bedroom, I have a porch with a roof on it. I got on top of the roof and I took
121 pictures looking down so you could kind of see. I wanted to get it right, you know what I'm saying?
122
123 JAMES SMITH: That works.
124
125 BRIAN MICCICHE: I even painted the orange line so you can see, like, where the hill starts and where the back
126 property line is.
127
128 JAMES TOTTEN: If I may, for Richard? Does this structure end up in the Town's right-of-way?
129
130 RICHARD CANUEL: It should not.
131
132 JAMES TOTTEN: No?
133
134 RICHARD CANUEL: The setback should start at the property line, not at the roadway.
135
136 JAMES TOTTEN: But as it's proposed here, does it end up in the Town's right-of-way?
137

138 LARRY O'SULLIVAN: 12 to 15 feet from the property line.
139
140 RICHARD CANUEL: I don't have what you have there, so...
141
142 JAMES TOTTEN: Okay.
143
144 LARRY O'SULLIVAN: It says 12 to 15 feet from the property line.
145
146 RICHARD CANUEL: Okay.
147
148 LARRY O'SULLIVAN: Is that what you mean, as opposed to from the roadway?
149
150 BRIAN MICCICHE: Well, he asked "from the roadway." I don't know exactly where the property line is off
151 from the roadway. To the white fog line on the roadway, it's about 12 to 15 feet from the furthest edge of my
152 shed to the road. It's 12 to 15 feet right there.
153
154 LARRY O'SULLIVAN: So, needless to say...
155
156 RICHARD CANUEL: You should be able to see that on your GIS if you've got it there.
157
158 JAMES TOTTEN: What's the Town's right-of-way on Perkins Road?
159
160 RICHARD CANUEL: The Town's right-of-way ends at the front property line.
161
162 JAMES TOTTEN: But how many...
163
164 RICHARD CANUEL: I don't know how wide that is right there off the top of my head.
165
166 LARRY O'SULLIVAN: We're not measuring from the property line. We're measuring from the roadway.
167
168 BRIAN MICCICHE: From the fog line, that's where I was...you know what I'm saying, that's...
169
170 LARRY O'SULLIVAN: So we're on the roadway then. So what we have is we have the Town's right-of-way
171 which takes up 12 to 15 feet, right? And then you want to put it just at the edge of that.
172
173 BRIAN MICCICHE: Well, I'm giving myself 12 feet because I need 12 feet wide, do you know what I'm saying?
174 So...
175
176 LARRY O'SULLIVAN: Okay, so if Perkins Road gets busy and they widen it...
177
178 BRIAN MICCICHE: Sure.
179
180 LARRY O'SULLIVAN: And they widen it.
181
182 BRIAN MICCICHE: And it's going to get busier.

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
226
227
228

LARRY O'SULLIVAN: Okay, well let's assume that they widen it. You're going to have to move your shed because you're going to lose...

BRIAN MICCICHE: Well, I don't want to go on assumptions or hypotheticals. I mean, I don't know the Master Plan of what's going on. What I'm asking for is to build a 12 x 16 shed as it sits right now, with the way it is right now.

LARRY O'SULLIVAN: That's what we're hoping to do.

BRIAN MICCICHE: That's what I'm hoping for, too.

LARRY O'SULLIVAN: What the issue is going to be is to make you aware that if you build too close to the property line, you're going to have to move it if they expand the road because it's too close to the roadway because that's not your property there. If the Town has, on both sides of the road...

BRIAN MICCICHE: Seven feet?

LARRY O'SULLIVAN: I think it's 15 feet. I don't know what it is...

BRIAN MICCICHE: I was under the assumption it's at the stone wall that goes between my neighbor's house. And there is like five feet in front of that to the road, so I'm going to be within 7 feet back from that stone wall, you know what I'm saying? So even if the Town came in and widened it to my property line, it still leaves me room to get in and out of the driveway and...

JAMES SMITH: Okay, I want to ask...Richard, would this be a road that was laid out by rite of passage?

LARRY O'SULLIVAN: It is an old, old road.

RICHARD CANUEL: Oh, gee, I have no idea of that. I would have to research that to know that.

JAMES SMITH: Well, what I'm suggesting...there may or may not be an actual defined right-of-way.

RICHARD CANUEL: Well, there is a defined property line and the right-of-way goes from the front property line across the right-of-way to the other property line, so that would be the width of the public right-of-way.

LARRY O'SULLIVAN: We're having a difficult time because we can't give you permission to put something in the Town's right-of-way.

BRIAN MICCICHE: But it's in my yard.

LARRY O'SULLIVAN: We want to make sure that...without having a survey or what have you, which is a pain in the neck, to ensure that you're good where you go.

JAMES SMITH: Has your property ever been surveyed?

229 BRIAN MICCICHE: Sir, I moved there two years ago. I can't answer anything...in the last two years? No. Not
230 that I know of.
231
232 JAMES SMITH: How old is the house?
233
234 BRIAN MICCICHE: Couldn't tell you.
235
236 LARRY O'SULLIVAN: What do we have on the...? Do we have the Assessor's notes here?
237
238 JAMES SMITH: Yeah. Neil's good at that. Could you...?
239
240 NEIL DUNN: Pull up the appraiser...?
241
242 JAMES SMITH: Yeah.
243
244 JAMES TOTTEN: I don't know where the conversation has gone, but it looks like he is outside of the Town's
245 right-of-way. The Town's right-of-way is 12 feet from the edge of the road.
246
247 LARRY O'SULLIVAN: Okay, so we're 12 feet from the edge of the road and you were talking about the fog
248 line...
249
250 BRIAN MICCICHE: The white fog line, that's correct.
251
252 LARRY O'SULLIVAN: ...which is a couple of feet inside that.
253
254 BRIAN MICCICHE: Well, I wouldn't say...I mean, it's less than a foot off the curb, you know?
255
256 JAMES TOTTEN: It would be right on the edge. Yeah.
257
258 BRIAN MICCICHE: But I don't know what the distance is; where you guys own and where I own. I just know
259 that I need my shed in the front yard.
260
261 JAYE TROTTIER: The Assessor's records say it was built in approximately 1976.
262
263 JAMES SMITH: Okay, that would have been before they did certified plot plans.
264
265 NEIL DUNN: And is there a reason why you wouldn't...I know you talked about the hill and I'm trying to look
266 where you're showing a trailer, I guess if you go to the left, coming into your driveway. Bear with me a
267 minute. In the right corner, I guess, looking from your front porch.
268
269 BRIAN MICCICHE: Well, I would still be within 15 feet of my neighbor's property line because as you can see,
270 the slope to my backyard starts right there at the end of my driveway. So that wouldn't leave me room to
271 have a grapple of wood delivered. Where would I put that? I did it last year. I had wood delivered. It was
272 stacked up. I couldn't access my trailer for almost three months until I split all the wood. I mean, I'm trying to
273 save myself some time here. And some space.
274

275 NEIL DUNN: So when we're looking at these pictures, there are a bunch of black lines that kind of surround
276 everything.
277
278 JAYE TROTTIER: That's just from Bing Maps.
279
280 NEIL DUNN: Oh, okay, so that's not a valid...okay. I'm just verifying that.
281
282 JAMES SMITH: Are those presumed property lines, Jaye?
283
284 JAYE TROTTIER: Yeah.
285
286 JAMES TOTTEN: On the Town's GIS, that black front line that looks like it would go right through the middle of
287 the shed is actually closer to the street.
288
289 JAMES SMITH: Okay. Any other comments? Questions?
290
291 LARRY O'SULLIVAN: I'm still trying to figure out how it fits with the built up white walled section right at the
292 edge of the driveway.
293
294 BRIAN MICCICHE: If you come off from that 12 feet, because it's only going to be...from the road, it's 12 feet
295 out, 16 feet wide, so...
296
297 LARRY O'SULLIVAN: Okay. So you're going to be right on top, putting the shed right on top of where it looks
298 like you have...
299
300 BRIAN MICCICHE: Well, that will be like knee wall. Sure, like a two foot high...I'll start that right on top of that.
301 So I'm going to bring it as far back as I can. But I can only go so far.
302
303 JAMES SMITH: Okay. Any other comments from the Board? [No response]. I'll open it up the audience.
304 Anyone who is in favor of this? Anyone have questions or objections?
305
306 BRIAN MICCICHE: I'm in favor of it.
307
308 [Laughter]
309
310 JAMES SMITH: We presume that. I think part of the problem we're having is trying to establish where that
311 front property line really is.
312
313 LARRY O'SULLIVAN: If we gave you permission to do the 15 feet from the front property line, you don't know
314 where the front property line is, so it's 15 feet from where? Okay, that's really what we're trying to get at.
315
316 BRIAN MICCICHE: Well, if you...
317
318 LARRY O'SULLIVAN: We need to get a better idea.
319

320 BRIAN MICCICHE: If you guys tell me how far in your line comes, I guess that would dictate my line. I was
321 going by the street. From the edge of the shed to the street, that's the distance that I gave. If you guys have
322 12 feet, then I guess the shed is going to be a few feet off from your line. I don't know, but I don't see how
323 you guys could widen that road, if you did that anyway, because they would have to build on the other side
324 where my black trailer is. That kind of goes up. I mean, they would have to fill that whole area in. So I don't
325 see how that would affect me hypothetically in the future.

326
327 LARRY O'SULLIVAN: Yes and I don't really want to talk about the future either.

328
329 BRIAN MICCICHE: Right.

330
331 LARRY O'SULLIVAN: I needed to make sure that you are aware that if they put sewer through there or water
332 through there or they expanded the road, that shed has to go. If you put it on the property line or too close to
333 the property line or over the property line, on the Town's land, right? So just as long as you're aware that
334 there is a limit to how close you can get to the road. It's 12 feet from the edge of the roadway. Okay?

335
336 BRIAN MICCICHE: I make the distance then.

337
338 LARRY O'SULLIVAN: You also write in here that you want it to look like a barn.

339
340 BRIAN MICCICHE: I do.

341
342 LARRY O'SULLIVAN: A red barn.

343
344 BRIAN MICCICHE: I have the siding for it. Cupola on top, too.

345
346 JAMES SMITH: Any other comments? Nothing more from...yes? Do you want to approach a mic and identify
347 yourself?

348
349 PAULINE CARON: Pauline Caron, 369 Mammoth Road. If this is a Town road that is 25 feet wide, it starts from
350 the center of the road and it goes 12.5 feet on each side. That's all I have to say. Thank you.

351
352 BRIAN MICCICHE: Thank you.

353
354 JAMES SMITH: Anything else? In that case, I'll close the public hearing and we will deliberate on it.

355
356 DELIBERATIONS:

357
358 LARRY O'SULLIVAN: Okay, he's got a steep slope, he's got no place to put it, it's not going to have a footing, he
359 knows he is going to have to move it if there is some kind of a construction issue. And I thought we had two
360 different issues here; one of them isn't so much the width of the road, it's the right-of-way that the Town has
361 on top of the width of the road, so that's really what we're measuring and we're trying to prevent you from
362 doing something that's going to cost you in the future. So I have no issue with the...because of all of the
363 special conditions of the property. I don't think there is anything that is contrary to the public interest with
364 this if it's not on public land. I don't believe there will be any obstruction, either. I think the spirit is still
365 observed. Typically, what we're attempting to do by overall ordinances in the town, is to make it so that we're

366 not overcrowding any of the lots or making it unsafe for any other people who are driving on the roads,
367 walking on the roads, or biking on the roads, so, among other things, your neighbors have to have their rights
368 protected just as well. So you're not obstructing their view from anything. There doesn't seem to be anything
369 in the way of, in my opinion, any type of intrusion. I think substantial justice is pretty covered with the slope
370 as well, giving you the only flat spot to use. There is no diminishing of any of the property values nearby. One
371 of the questions I would have, and one of the restrictions I would like to be able to suggest, is that if you say
372 you're going to remove the trailer from being close to the front of the yard, since it is on wheels, since it's
373 towable and so forth, I suspect that that should be moved away from the front of the yard and that's what I
374 would request.

375
376 BRIAN MICCICHE: The trailer is going to be returned to the owner.

377
378 LARRY O'SULLIVAN: Even better. The literal enforcement of the ordinance has an unnecessary hardship
379 associated since you have a slope that makes it very difficult to get up from behind the house where the only
380 other flat spot is with any type of tool; snow blower, plow...

381
382 BRIAN MICCICHE: A Harley.

383
384 JAMES SMITH: Anybody else? Neil?

385
386 NEIL DUNN: I'm having trouble with the spirit. Typically, when you have a 40 foot setback, we're seeing a few
387 feet into the setback or whatever. This, when we're almost at the edge and we're not quite sure...so I guess I
388 have trouble with the spirit condition of it. I have a driveway that goes up a hill. I mean, you have to live with
389 hills and get in and out of your house the best you can with them. I don't know. It just looks so close to the
390 road, that to me, it seems to be kind of against the spirit where we're looking for that setback for that clean,
391 uncluttered look or safety or point of line of sight. Pulling in there, it takes a huge part of the parking lot. I
392 guess that's my thought. It's so darned close to that unknown property line. We're not encroaching five feet
393 into a 40 foot setback, so we're still 35 feet away. It's right out there and it seems to me to be tough for me to
394 get around the spirit, but...

395
396 LARRY O'SULLIVAN: Given that, where else would you put it? Where could you put it?

397
398 NEIL DUNN: There's a whole other yard. And my point is; I have a big hill that I have to drive up to get into
399 every day, too. Hills are part of your property and it's a shed. And so the spirit of the ordinance and the
400 slope...you know, it's part of what it is, I guess. I don't know. That's my thought. It's a tough call, but...

401
402 LARRY O'SULLIVAN: So you're saying that you would look at the shed similarly to the way you would look at a
403 swimming pool in the ground, for example, or...?

404
405 NEIL DUNN: No...

406
407 LARRY O'SULLIVAN: I'm just trying to get an....

408
409 NEIL DUNN: No, all I'm looking at is it's so close to the front. We have the 40 foot setback and to say 'I can't
410 get into my shed,' well, people have hills all over their driveways and yards and whatever and sheds are all

411 over. I'm having trouble with the spirit; being that close to the property line and blocking out the front like
412 that.
413
414 LARRY O'SULLIVAN: So is there a safety concern with the front?
415
416 NEIL DUNN: Well, I think that goes along with why we came up with the 40 foot setback, was so that you
417 would have visibility from either approaching fire, medical, or whatever.
418
419 JAMES SMITH: Neil? I think the mitigating point on this is because it slopes back and down from the road,
420 that kind of is...you can almost use that as a substitute for that 40 feet because as you go back, everything
421 drops and it's not creating a problem with visibility along the side of the road, whereas if it was flat or curved
422 or something like that, it would have more of a problem. The other thing I think you need to consider; what
423 he wants to use the shed for. The snow blower and lawn mower. If you have the snow blower in a shed that's
424 out in the back, downhill, it's not going to be very functional for him to try to use it if there's a couple of feet
425 of snow and he has to plow down to get to the snow blower to try to work the snow blower up the hill to
426 where he really wants it. So, it's an unusual situation. And I think part of the problem is also; it is an old road.
427 And...
428
429 NEIL DUNN: Where the houses are close anyway.
430
431 JAMES SMITH: Yeah, I mean the house was built in '76. Even at that point, the road was there...t could have
432 even have been a dirt road at that point, for all I know. Because I know we had a few dirt roads in that
433 timeframe.
434
435 BRIAN MICCICHE: Perkins Road in front of my house goes up the hill and turns away from my house, so there
436 would be no view obstruction from any cars, fire trucks, ambulances, coming or going, so...
437
438 JAMES SMITH: We can't take any more input from...
439
440 BRIAN MICCICHE: Oh, sorry.
441
442 JAMES SMITH: Okay. So, anybody else? Jim? If not, I'd entertain a motion.
443
444 LARRY O'SULLIVAN: You don't want to do anything else to address Neil's issue with the spirit?
445
446 JAMES SMITH: Well, I think the spirit...
447
448 LARRY O'SULLIVAN: Is being met because it is a downhill...
449
450 JAMES SMITH: Right.
451
452 LARRY O'SULLIVAN: He's building on the downhill with a...
453
454 JAMES SMITH: Right.
455

456 LARRY O'SULLIVAN: I think it's going to be easier from the road to see the top of the building than you will of
457 any of the sides of the building. I think it's going...the cupola...
458
459 JAMES SMITH: Yeah, you might see the top.
460
461 LARRY O'SULLIVAN: ...the cupola is going to be the thing that you're going to see first. So...anyway, that's just
462 my opinion, but the...I thought he met the spirit simply because...
463
464 JAMES SMITH: Yeah.
465
466 LARRY O'SULLIVAN: ...it appears that he's going to be far enough away from the road and it's going to be lower
467 than the road level for most of that building.
468
469 JAMES SMITH: Okay. Do you want to make a motion?
470
471 LARRY O'SULLIVAN: Okay. I make a motion to approve case 8/21/2013-1 as a storage shed to resemble a red
472 barn at 12 x 16, no closer than 15 feet from the front edge...I'm sorry, from the edge of the roadway and I
473 guess that's it. I make a motion to approve it.
474
475 JAMES SMITH: Do I have a second?
476
477 LARRY O'SULLIVAN: Any other restrictions or what have you?
478
479 JAMES SMITH: It's not going to be permanently located, so that's one of the key things.
480
481 LARRY O'SULLIVAN: Do you mean you want me to put that into the restrictions? The way it was presented
482 was...
483
484 JAMES SMITH: Yeah.
485
486 LARRY O'SULLIVAN: ...not footed.
487
488 JAMES SMITH: Right. 'With no permanent location on the ground.'
489
490 LARRY O'SULLIVAN: Oh, you want me to add that?
491
492 JAMES SMITH: Yeah.
493
494 LARRY O'SULLIVAN: Okay, then I'll add that as a restriction, then. That there be no permanent attachment to
495 the ground.
496
497 JAMES SMITH: Okay. Does somebody want to second it?
498
499 [No response].
500
501 LARRY O'SULLIVAN: Since we don't have a second, then it dies. Does somebody else want to give it a try?

502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547

JAMES TOTTEN: Why can't the shed go back where that trailer is?

BRIAN MICCICHE: Because if the shed goes where the trailer is, I have a grapple of wood which is eight cords delivered, that's where I cut and split it. If I put the wood in my driveway, then I won't have any access to anything. It will block my whole driveway. I can't have a grapple delivered to the bottom section of my hill. It's just such a big hill. I have two spots; one for a shed, one for wood.

JAMES TOTTEN: Oh, so that trailer is not there when...

BRIAN MICCICHE: That trailer is gone as soon as I can get the shed built. But even then, that back of that trailer is right on my property line. So if I was to come off that property line 15 feet, that's a 16 foot long trailer, so the front of that now coming off from that 12 feet, now I'm already into the hill. You know what I'm saying? Now it's downhill from there. I've got no room for anything. Where am I gonna put my wood?

JAMES SMITH: Neil, would you want to make a motion?

NEIL DUNN: I wish I had a better view of the hill. I'm not getting a good view of that from here for some reason.

BRIAN MICCICHE: There is a picture from the back yard looking up from both ends...

JAMES SMITH: Okay, at this point, I'd like to reopen the hearing just because you want to make a few more comments.

BRIAN MICCICHE: Well, if there are questions, I have answers.

JAMES SMITH: Yup. I mean, once we close the hearing, we're not supposed to take any additional information, so...It appears we like have some questions of you, so in that case, I want to reopen the hearing for this until we have all the questions answered. So, Neil, have you got any other questions?

NEIL DUNN: How is the lumber truck...if that's in the driveway, then you have pretty much wiped out that whole right side, looking from the street towards the house, and then you have a tree to the left it looks like and so the grapple load truck is still going to get in there?

BRIAN MICCICHE: Back down and unload. There's plenty of room for him to come in from the corner where that shed is going to be. I've already marked it out. I've driven a truck through there already.

NEIL DUNN: A grapple load truck?

BRIAN MICCICHE: Not a grapple load, but there's going to be plenty of room for a truck to back down in there. I mean, that's...if I think it's going to be okay for my wood to be delivered, I think that there's ample enough room. I wouldn't shortchange myself.

LARRY O'SULLIVAN: Mr. Micciche, you have a picture that shows the driveway...the whole lot, I guess. Is that Google Earth or something? What is that?

548
549 JAYE TROTTIER: I don't know which one you're looking at, but...
550
551 BRIAN MICCICHE: Which one is that?
552
553 LARRY O'SULLIVAN: I'm looking at....it says 'Looking North.'
554
555 JAYE TROTTIER: Yeah, that's Bing Maps.
556
557 BRIAN MICCICHE: What picture number is that?
558
559 JAYE TROTTIER: It's actually...
560
561 BRIAN MICCICHE: Oh. Alright.
562
563 LARRY O'SULLIVAN: Anyway, we have an overhead...
564
565 BRIAN MICCICHE: Oh.
566
567 LARRY O'SULLIVAN: ...that shows two cars in the driveway, parked side by side...
568
569 BRIAN MICCICHE: Mm-hmm.
570
571 LARRY O'SULLIVAN: We see a parking area for a trailer and something black and what looks like red in front of
572 the trailer. And then in front of the house, directly in front of the house, in the middle of the house, it looks
573 like there's a walkway. The walkway goes flat along the ground...I'm sorry, horizontal...
574
575 JAMES SMITH: It looks like a set of stairs.
576
577 LARRY O'SULLIVAN: ...and then it goes up.
578
579 BRIAN MICCICHE: Twelve steps.
580
581 LARRY O'SULLIVAN: Okay, so from the level of the house, he has to go 12 steps to get to the middle of the
582 driveway.
583
584 JAMES TOTTEN: Yeah, the driveway is level with the street.
585
586 BRIAN MICCICHE: Actually, it's not. Actually, the street goes up and my driveway goes down, so it's at
587 opposite. The only flat spot is that spot of the driveway.
588
589 JAMES TOTTEN: Yeah, so in picture number five...
590
591 BRIAN MICCICHE: Picture number five...
592
593 JAMES TOTTEN: ...that whole corner where you want to...

594

595 BRIAN MICCICHE: Picture number five; I would like to put my 12 x 16 shed, yes. That's exactly...

596

597 JAMES TOTTEN: Basically, where that car is but further to the...

598

599 BRIAN MICCICHE: That's right. Where that car is. But it's not going to be to back end of that car. It would
600 probably only be...to the middle of the passenger's door is 12 feet.

601

602 JAMES TOTTEN: And then the driveway to the left on that picture starts to slope down?

603

604 BRIAN MICCICHE: It goes down and at the end of the driveway, you will see the...I have the red reflector.
605 That's where my well cap is, so I can't do anything there and that's only, I think, 12 feet wide right there and at
606 that point, it slopes down the hill as it starts to go around. That's all slope down. So there is nowhere...If it
607 was wider there, then I could have a grapple load delivered to the right, but it's not. It's only as wide as the
608 driveway. That's where the hill starts.

609

610 JAMES SMITH: If you look at picture 11, you can see the back of that retaining wall.

611

612 LARRY O'SULLIVAN: Mm-hmm.

613

614 JAMES TOTTEN: That's the retaining wall?

615

616 LARRY O'SULLIVAN: Yeah, there's a cinderblock retaining wall, right?

617

618 JAMES SMITH: Yeah, if you go back to...

619

620 LARRY O'SULLIVAN: Is it poured concrete or cinder...?

621

622

623

624 JAMES SMITH: ...where the red car is, that's the top of that retaining wall.

625

626 BRIAN MICCICHE: That's correct.

627

628 JAMES SMITH: In picture five.

629

630 JAMES TOTTEN: Mm-hmm.

631

632 JAMES SMITH: Is [picture] ten on the opposite side of the building from the retaining wall?

633

634 BRIAN MICCICHE: Excuse me?

635

636 LARRY O'SULLIVAN: Picture ten.

637

638 JAMES SMITH: Picture ten; is that the opposite side of the building?

639
640 BRIAN MICCICHE: That's...I guess...picture ten and 11 are from the backyard from the bottom. Yeah, ten is the
641 one on the right side of my driveway as you're looking out the front door, it's on the right. Eleven's on the
642 left, looking up.
643
644 JAMES SMITH: It gives you an indication of the slopes.
645
646 BRIAN MICCICHE: I've got the best sledding hill in Londonderry.
647
648 JAMES SMITH: Okay. Any other information we need? I think what this shows; this is a very unique lot with a
649 lot of slope. It's pretty difficult to do much with. Okay, at this point we'll re-close the hearing and open it back
650 up to the Board.
651
652 LARRY O'SULLIVAN: I'm not the one who...I already said my...
653
654 JAMES TOTTEN: Are the side setbacks adhered to? Like, there aren't other setback issues, right?
655
656 JAMES SMITH: Yeah.
657
658 JAMES TOTTEN: Fifteen feet?
659
660 JAMES SMITH: Fifteen feet. I would say that retaining wall is probably 15 feet so if it's within that, it's going to
661 be...
662
663 JAMES TOTTEN: It looks it from the GIS.
664
665 NEIL DUNN: If you want redo your motion...?
666
667 LARRY O'SULLIVAN: No, I don't.
668
669 [Laughter]
670
671 NEIL DUNN: I don't know...
672
673 LARRY O'SULLIVAN: Are you feeling any more favorably about my original motion or is there another
674 restriction you...?
675
676 NEIL DUNN: I think at this point...
677
678 JAMES SMITH: We can put it back on the table. Would somebody...?
679
680 NEIL DUNN: Yeah, at this point, I am, Larry, I guess, enough to second it.
681
682 JAMES SMITH: Okay. So the original motion...
683
684 LARRY O'SULLIVAN: Is to approve it.

685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720

JAMES SMITH: ...is to approve it, basically.

LARRY O'SULLIVAN: Moving the trailer...removing the trailer, resembling a red barn, 12 x 16 shed, 15 feet from the edge of the road.

JAMES TOTTEN: Not permanent. No footings.

LARRY O'SULLIVAN: And with no footings. No permanent footing.

NEIL DUNN: I'll second it.

JAMES SMITH: And Neil seconds it. All those in favor?

NEIL DUNN: Aye.

JAMES TOTTEN: Aye.

LARRY O'SULLIVAN: Aye.

JAMES SMITH: Aye.

BRIAN MICCICHE: Ladies and gentlemen, have a good night.

RESULT: THE MOTION TO GRANT CASE NO. 8/21/2013-1 WITH RESTRICTIONS WAS APPROVED, 4-0-0.

RESPECTFULLY SUBMITTED.



NEIL DUNN, CLERK

TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

APPROVED SEPTEMBER 18, 2013 WITH A MOTION MADE BY LARRY O'SULLIVAN, SECONDED BY JAMES TOTTEN AND APPROVED 3-0-1 (JACKIE BENARD ABSTAINED AS SHE WAS NOT A MEMBER OF THE BOARD AT THE TIME).