

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

DATE: JULY 20, 2011

CASE NO.: 7/20/2011-1

APPLICANT: ROBERT AND CHRISTINE LEES  
21 KITT LANE  
LONDONDERRY, NH 03053

LOCATION: 21 KITT LANE; 10-16-29; AR-I

BOARD MEMBERS PRESENT: MATT NEUMAN, CHAIR  
JIM SMITH, VOTING MEMBER  
LARRY O'SULLIVAN, VOTING MEMBER  
MICHAEL GALLAGHER, NON-VOTING ALTERNATE  
JAY HOOLEY, VOTING ALTERNATE  
NEIL DUNN, CLERK

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

REQUEST: VARIANCE TO ALLOW A DETACHED GARAGE TO ENCROACH ON THE SIDE  
LINE SETBACK WHERE A MINIMUM OF 15 FEET IS REQUIRED BY SECTION  
2.3.1.3.3.

PRESENTATION: Case No. 7/20/2011-1 was read into the record with no previous cases listed.

BOB LEES: Hi, my name is Bob Lees, 21 Kitt Lane. Yes, I'm trying to put up a garage. I talked with Rich, the Building Inspector, a while back, and I understand there's an ordinance as far as being able to put on detached garages with not having a proper lot line adjustments or clearance. We weren't sure if I...the only rule that we had a problem with was if the neighborhood had a precedent or had other types of these garages. I did an overview of my neighborhood. I sent you one picture. It's at 19 Kitt Lane, Ken McLoon. That one is also a lot line adjustment.

MATT NEUMAN: You know, I'm just gonna separate that. If you could just walk through your application.

BOB LEES: Okay.

MATT NEUMAN: And present that and then we'll go through that [indistinct].

BOB LEES: Alright, I guess very basically, you want me to talk about the...

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MATT NEUMAN: Just start with number one and just...

BOB LEES: Number one? Yeah, the variance will not be contrary to public interest. I've spoken with my abutters, nobody seems to have a problem as long as we're properly on our own property. The spirit of the ordinance, I believe my neighbor's house is quite a distance from the lot line, so there will not be an overcrowding issue. Justice to be done; I believe so. I am looking to put up a twenty four (24) by twenty four (24) two-stall garage for my wife and I to use for the wintertime, when I understand there's also an ordinance that may also allow me to do this. The value of the surrounding properties are not diminished. I believe with the detached garage and the neighborhood, property values would just increase as my home value would increase. Literal enforcement of the provision of the ordinance would result in unnecessary hardship. No fair and substantial relationship exists between the general public purposes of the ordinance provisions and specific application of that provision to the property. I believe the request to be a fair one that the next door neighbor has a similar garage and is also close to the lot line. The proposed use is a reasonable one. I believe this is to be reasonable request for a garage that most of the homes in the neighborhood already have. If the criteria...unnecessary hardship will be deemed to exist only if owing to special conditions of the property that distinguish it from other properties in the area the property cannot be reasonably used in strict conformance with the ordinance and a variance is therefore necessary to enable reasonable use of it. Cannot build on the other side of my home because that's where the leachfield is and two (2) of the three (3) entrances would then be on the other side of the house from the garage. And that's basically it. I sent you some pictures, kind of a layout of the dimensions. Kind of looking down the driveway would be the first picture, kind of giving you an idea of the lot line from my neighbor's house where the garage side, where the garage would be. Where the front of the garage would be at the end of the driveway. Kind of where the corner would be of it next to my house, of the existing house. And then showing the garage on 19 Kitt Lane which is also a lot line variance that was put up a number of years ago and mine would be similar to that except it would be twenty four (24) by twenty four (24), this is twenty six (26) by twenty six (26) and I would have the doors on the gable end versus the side.

MATT NEUMAN: First off, this is going to be a two-stall garage?

BOB LEES: Yes, sir.

MATT NEUMAN: Have you thought at all about a one-stall garage?

BOB LEES: No, sir.

MATT NEUMAN: A one-stall garage wouldn't...

BOB LEES: It doesn't suit my needs, no sir.

MATT NEUMAN: No?

BOB LEES: My wife and I just...

LARRY O'SULLIVAN: Had you considered moving it closer to the house?

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91 BOB LEES: I tried to get it close to the house and then I end up going...to do an attached garage, I only have  
92 like thirty (30) nine (39) feet from the house to the lot line.  
93  
94 LARRY O'SULLIVAN: So that would be the fifteen (15) feet, the twenty four (24) from the width of the...  
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96 BOB LEES: Yes.  
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98 LARRY O'SULLIVAN: So that would just bring you just inside the fifteen (15) foot...  
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100 BOB LEES: Just inside the fifteen (15) feet and then, but I would have to then make it an attached garage.  
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102 LARRY O'SULLIVAN: Why?  
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104 BOB LEES: How would I be able to put it up otherwise if I'm right next...I'd be right on the house.  
105  
106 LARRY O'SULLIVAN: Or closer to the house as opposed to next to it.  
107  
108 BOB LEES: I'd be right on it. I'd have to attach it in order to get the twenty four (24) feet.  
109  
110 LARRY O'SULLIVAN: Okay.  
111  
112 BOB LEES: Yup, I would have to attach it.  
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114 LARRY O'SULLIVAN: And that's not acceptable?  
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116 BOB LEES: No. Then I have to do considerable site work to make that work. I'd have to change the openings  
117 to the driveway to the road. Everything would have to be moved over thirty (30) feet, twenty (20) feet.  
118  
119 JAY HOOLEY: Mr. Chairman, if I may?  
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121 MATT NEUMAN: Yeah.  
122  
123 JAY HOOLEY: Would it be an option to move the garage slightly back so that the front does not line up directly  
124 with the rear of the home, back and to the left, allowing you a separation if you wish not to attach it?  
125  
126 BOB LEES: Not really 'cause it's going back further and further. Could you put it back there? Sure you could  
127 but then it just makes it so user unfriendly, there's no need to...I shouldn't bother putting it there. I'd have a  
128 long, long driveway to maintain and I'm trying to make my life a little bit easier in the wintertime, no make it  
129 more complicated.  
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131 LARRY O'SULLIVAN: I'm looking down the driveway. You gave us a picture looking down the driveway.  
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133 BOB LEES: Yes.

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LARRY O'SULLIVAN: Right? And you put an outline of...

BOB LEES: Where it would be.

LARRY O'SULLIVAN: ...of where...that's great to see that.

BOB LEES: Mm-hmm.

LARRY O'SULLIVAN: But that also gives us, to Jay's point, the option that we would like you to talk about, as opposed to, you know, an additional five (5) feet of shoveling, why that couldn't be offset a little bit?

BOB LEES: Yeah, I'm misunderstanding...

LARRY O'SULLIVAN: Move it further back and move it to the left.

BOB LEES: Move it further back and to the left. Again, in order to get the fifteen (15) feet, I'm gonna have to be way back...

LARRY O'SULLIVAN: As opposed to the fifteen (15) feet, is there an option, any other option that you had considered to do something like that?

BOB LEES: Well, I looked at putting on an attached garage, okay?

LARRY O'SULLIVAN: Okay.

BOB LEES: I looked on that and then that became very cost prohibitive for me to do, okay? So that's when I went looking for a detached garage, okay? I went to look where to put it. Obviously, it makes the most sense to put it at the end of the driveway to make it easier to put in or what have you, okay? Less site work to be done. If I push it further back, again, I'm just coming into the situation where I'm gonna make that driveway now a hundred and thirty (130) feet long versus seventy (70) feet long in order to get it further enough back to get the sideline adjustment done. I also have a deck back there and a pool back there and it just didn't work out that way, you know?

LARRY O'SULLIVAN: The reason why I'm asking the questions is that your neighbors...first of all, it's a variance, it goes with the land.

BOB LEES: Mm-hmm.

LARRY O'SULLIVAN: So long after your neighbors are gone, long after that house is gone, that variance is gonna be there.

BOB LEES: Okay.

LARRY O'SULLIVAN: Okay. So this isn't today.

179  
180 BOB LEES: Mm-hmm. Right.  
181  
182 LARRY O'SULLIVAN: This is forever.  
183  
184 BOB LEES: Mm-hmm.  
185  
186 LARRY O'SULLIVAN: The other thing is, your neighbor has fifteen (15) feet that they can't build in...  
187  
188 BOB LEES: Correct.  
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190 LARRY O'SULLIVAN: ...on your side.  
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192 BOB LEES: Mm-hmm.  
193  
194 LARRY O'SULLIVAN: Because we have, throughout town, decided that fifteen (15) feet is what our side lots are  
195 typically going to be.  
196  
197 BOB LEES: Mm-hmm.  
198  
199 LARRY O'SULLIVAN: The buffers, that is. So in order to prove that you have something that's a little different  
200 here in the way of circumstances...  
201  
202 BOB LEES: Mm-hmm.  
203  
204 LARRY O'SULLIVAN: ...what we need to get is some of the information from you...  
205  
206 BOB LEES: Yeah.  
207  
208 LARRY O'SULLIVAN: ...that says yeah, this isn't gonna work anyplace else. So that's why I'm asking the  
209 questions.  
210  
211 BOB LEES: Yeah. I guess the other question I would have is, does the ordinance that you now have in town  
212 that allows detached garages no bigger than twenty four (24) by twenty four (24) fall into this application?  
213 Maybe I don't have any in my neighborhood. I do have one (1) that's a lot line variances and it's a detached  
214 garage but is that enough?  
215  
216 JAY HOOLEY: I did notice that in that neighborhood you've got some with attached on the right, some with  
217 attached on the left, some with a breezeway, some with one under, some with two under, some detached.  
218  
219 BOB LEES: Right.  
220  
221 JAY HOOLEY: There's a little of everything that folks have done to make it work on their particular lot.  
222  
223 BOB LEES: Yeah. Mm-hmm. Yeah, my house was not built, and as was my neighbor's house, was not built as

224 to, when they built them forty (40) years ago, as per the plot plan? None of them were up in that  
225 neighborhood.

226  
227 JAY HOOLEY: What Larry was probably trying to get to was that although there's plenty of room on the right...  
228

229 BOB LEES: Yeah.

230  
231 JAY HOOLEY: ...your neighbor has a right to build or the next person or the person after that, to build right up  
232 to fifteen (15) feet on that side, at which point you would run out of open space there.

233  
234 BOB LEES: Right.

235  
236 JAY HOOLEY: Granting this variance would not preclude him from building his side lot line.

237  
238 BOB LEES: Correct. Mm-hmm.

239  
240 MATT NEUMAN: Neil, did you have a question?

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242 NEIL DUNN: Richard, he's talking about some regulation's different on a detached versus an attached? A  
243 setback's a setback, isn't it?

244  
245 RICHARD CANUEL: Well, I think what he's referring to is the provisions in the ordinance that allow special  
246 exceptions for detached garages. And we did discuss that, however that doesn't apply in this case simply  
247 because one of the criteria is the Board has to show that there's a pattern in the neighborhood of other  
248 garages that have been built closer to the property lines. Looking at that neighborhood, you can probably see  
249 that on your monitors, is that there's probably only one other property that has a detached garage closer to  
250 the lot line. So there really isn't a pattern there, so those provisions of the ordinance really wouldn't apply in  
251 this case. You know, that's not gonna help out the applicant in this situation, so it's definitely a variance.

252  
253 NEIL DUNN: Okay. Thank you.

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255 JIM SMITH: When you discussed the idea of having an attached garage, you said there was a lot of cost  
256 involved?

257  
258 BOB LEES: Yes, sir.

259  
260 JIM SMITH: And what...?

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262 BOB LEES: Well, I would have to attach it to the house. Just attaching it the house itself and the foundation  
263 now becomes different. You now also have to have the fireproofing. You also have to have...I would also have  
264 to do the additional site work to change all the driveway to come...

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266 JIM SMITH: Well, I mean, how much of the driveway would you have to change?  
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268 BOB LEES: I would probably have to change, if I'm gonna move it over, there's twenty (20) feet, I probably  
269 have...I could add another fifteen (15) or eighteen (18) of driveway to the left and leave it all and then have a  
270 big wide open, you know? That's one option. If you're looking at the front view of the property.  
271  
272 NEIL DUNN: What's the distance from the house to the proposed...side closest to the house?  
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274 BOB LEES: I'm sorry, say again?  
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276 NEIL DUNN: What's the distance between the house and the garage as it's proposed?  
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278 BOB LEES: As it's proposed, it will twenty four (24), twenty nine (29), it'll be ten (10) feet...from the back  
279 corner of the home to the front corner of the garage.  
280  
281 MATT NEUMAN: Richard, there's no...we don't have any issue with that, do we as far we the proximity to the  
282 house? The garage? As long as it's detached, there's no limit as far as whether it's five (5) feet away...?  
283  
284 RICHARD CANUEL: You mean how close it can be to the house?  
285  
286 MATT NEUMAN: Yeah.  
287  
288 RICHARD CANUEL: Only from a building code standpoint. If it's three (3) feet or less, then you have that fire  
289 protection requirement on that one (1) adjacent wall.  
290  
291 LARRY O'SULLIVAN: So three (3) feet, in effect.  
292  
293 BOB LEES: Mm-hmm.  
294  
295 LARRY O'SULLIVAN: The effect, then, would be three (3) feet is the minimum distance for a standalone  
296 garage.  
297  
298 NEIL DUNN: Right.  
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300 MATT NEUMAN: So, I guess technically, you could move it seven (7) feet closer to the house.  
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302 BOB LEES: Mm-hmm. Sure. I could make that work, yeah.  
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304 MATT NEUMAN: So which, at that point we're talking what, twelve (12) feet?  
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306 LARRY O'SULLIVAN: Twelve (12) foot on the side, yeah.  
307  
308 MATT NEUMAN: Yeah.  
309  
310 LARRY O'SULLIVAN: On the buffer. Is that something that you can work with, Mr. Lees?  
311

312 BOB LEES: Just to make sure I understand you properly, instead of five (5) feet, you want to go twelve (12)  
313 feet?  
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315 MATT NEUMAN: I mean, you're a lot closer to the fifteen (15) at twelve (12) than you are at five (5).  
316  
317 BOB LEES: Then I could probably do the twelve (12) feet, and then I could probably move it back a little bit  
318 and make that work. As long as I don't have to move it so far back that now I'll....  
319  
320 MATT NEUMAN: Right.  
321  
322 BOB LEES: ...make myself a nightmare that I'm trying to avoid as I get older.  
323  
324 JIM SMITH: Is the lot level or pitched in any way?  
325  
326 BOB LEES: I'm sorry?  
327  
328 JIM SMITH: Is the land level or does it have any pitch to it or...?  
329  
330 BOB LEES: Very little pitch. There's a couple of slopes that come down to the driveway, it's about four (4)  
331 foot high and that's why I was gonna put it back, if you look at the front picture, you can see that, at the end of  
332 the driveway, the rise is about four (4) feet.  
333  
334 JIM SMITH: So as you go to the rear, you're pretty much level.  
335  
336 BOB LEES: It's all level. Right after it goes up about ten (10) feet out, there's about four (4) feet rise and it's  
337 level, the whole lot's level.  
338  
339 JAY HOOLEY: That's where I was headed with if he went ten (10) feet back, you can just move it over. I mean,  
340 it would mean extending the driveway area approximately ten (10) feet, but...  
341  
342 BOB LEES: Mm-hmm.  
343  
344 JAY HOOLEY: ...you could certainly fit it and keep it well in excess of the three (3) feet from the home.  
345  
346 BOB LEES: Mm-hmm.  
347  
348 JAY HOOLEY: And not need to do any of those modifications. It would be just slightly back and to the left.  
349  
350 BOB LEES: Slightly back and to the left I could probably make work.  
351  
352 JIM SMITH: Just to clarify this, Richard, if the garage was attached to the house, what would be the  
353 requirement of that wall?  
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355 RICHARD CANUEL: That one adjacent wall would have to be protected in accordance with the building code,  
356 minimum half inch standard dry wall.



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JIM SMITH: So we're not talking a very expensive protection.

RICHARD CANUEL: That's correct.

BOB LEES: We're talking a difference in insurance, also. For an attached garage versus a detached garage.

JAY HOOLEY: The only other thing I'd observe is, yes, moving it seven (7) versus ten (10) to get the fifteen (15), you want to make sure that you end up aesthetically with this thing separate...

BOB LEES: That's the other part I'm trying to...

JAY HOOLEY: That's why I was thinking ten (10) feet back, and you can go in the ten (10), you've got a...

BOB LEES: I hear what you're saying. Yup, I hear what you're saying...

JAY HOOLEY: You've got good separation and an open space between the two where you don't want it attached. You've got a detached space. Other than they would line up from the street view.

BOB LEES: The other part of the scenario, I didn't want...

JAY HOOLEY: [indistinct] to get through.

BOB LEES: I didn't want to have the same problem where then I put it so close I now I'm right on top of the deck.

JAY HOOLEY: And that's the reason I'm mentioning it, you could go the, you know, 'til you're within the three (3), but do you really want to end up with a three (3) foot space there? I think going a little further back and separating, you're actually much better off.

BOB LEES: Mm-hmm.

MATT NEUMAN: Any other questions or comments from the Board?

LARRY O'SULLIVAN: My point was gonna be that if you wanted a motion, the motion really wouldn't have anything to do with where he places it depth wise on the lot. It's just gonna be to the right and obviously, if you can work with twelve (12) feet, I would suggest we go...or I would vote in favor of the twelve (12) foot...

MATT NEUMAN: Right. Well, I think we still need to open it up to public comment first before we go down that route. And I digress because I made the mistake of not announcing which alternate is going to be voting on this and I think what we'll do is Jay, we'll start with you.

JAY HOOLEY: Okay.

401 MATT NEUMAN: And then we'll alternate. Mike, you can go on the next one and then we'll...so Jay Hooley  
402 will be the voting alternate on this case. I apologize for not announcing that at the beginning. If there's  
403 nothing further from the Board, then we'll open it up to public comment and then we'll come back. Anything  
404 further? If there's anyone in the public who would like to come forward and who agrees with this, in support  
405 of this variance, please come forward. I'm not seeing anyone. If there's anyone in opposition to this variance,  
406 come on down. Again, not seeing anyone, back to the Board. Any other...? Neil, go right ahead.

407  
408 NEIL DUNN: Mr. Lee, when we go through the variance request, we're using these five points that you filled  
409 out.

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411 BOB LEES: Mm-hmm. Yup.

412  
413 NEIL DUNN: And the number five is always a tough one and I'm having trouble seeing the special conditions of  
414 the property. So, I guess if you could help me there, based on the thing, it's special conditions of the property.  
415 It looks pretty similar and everything else. I don't see anything really special, so I'm trying to get some help  
416 with that.

417  
418 BOB LEES: Okay.

419  
420 NEIL DUNN: To help me decide that there's an...

421  
422 BOB LEES: Same discussion I had with Mr. McLoon on the other side. Ken and I have been neighbors for  
423 years. It's the same problem he had when he came for a variance is that basically, the homes were built on to  
424 the right...mine was built to the right side of the edge. We only have like less than forty (40) feet on one side  
425 and his property was built to the entire left, so we have this big, wide open space between his house and my  
426 house. But when you try to use your openings to your homes, your side entrance, your back entrance, your  
427 front entrance and what have you, and I also have the leachfield. Our leachfields are now in the middle of the  
428 property. I only am limited to, basically, that side of the property, okay, that I can build. The driveway side.  
429 Now maybe I can push it back a little bit further back and what have you, but basically, I'm restricted to only  
430 one side of the house to be able to build it, okay? Same thing Ken went through when he came for a variance.  
431 Same thing. [Indistinct] his whole property, and then you had a leachfield on the other side of the house. If  
432 the house had been built where it was supposed to be, then I probably wouldn't have had a problem, but  
433 that's forty (40) years ago, so we're talking about today. And that's why I wanted to just put it about five (5)  
434 feet, you know, five (5) to seven (7) feet was what I was looking for from the lot line and be able to get, you  
435 know, I can push it further back but I didn't want to go so far to the left, now I'm right up against my house,  
436 the deck, or what have you and it just doesn't work, you know? It's something that I'll look at and see what  
437 works for me but I know I looked at these situations, how far I could go and how close did I want to keep it  
438 from the house to the deck and stuff of that nature and what did I want to do. So that's why I'm here.

439  
440 LARRY O'SULLIVAN: I think what Neil was looking for, though, Mr. Lees, is the land itself, you know, the slope  
441 that you have in the back...

442  
443 BOB LEES: Yup.

445 LARRY O'SULLIVAN: ...the slope that you have on the side, kind of moves you to that point where your  
446 driveway and that's why your driveway is cut in there.

447  
448 BOB LEES: Mm-hmm.

449  
450 LARRY O'SULLIVAN: I mean, that's really what you're saying. We see that...I see that on the pictures and see  
451 that that is a, well, it's a minor difference probably than any of his neighbors, you don't see that typically.

452  
453 BOB LEES: Well, I think the issue I was trying to bring up was, that if the house is put over twenty (20), twenty  
454 five (25) feet where it was supposed to be, we wouldn't be here for a lot line variance because I would have  
455 the clearance on the side [indistinct] where all the driveway and everything else is but I don't.

456  
457 MATT NEUMAN: And to the left of the house, that's the leachfield, so there really is no...there was no way for  
458 it to come over any further to the left.

459  
460 BOB LEES: No. Mm-hmm.

461  
462 NEIL DUNN: If I may follow up, (B), if I don't have any relief in section (A) on that section five, 'cause I'm not  
463 sure that I'm convinced there's special conditions of the property, the other thing, (B), gives you the right  
464 because of some unnecessary hardship and there's no other way to do it. What I'm hearing is that because of  
465 insurance and some sheet rock, we don't wanna attach it to the house, which would make it comply...

466  
467 BOB LEES: Mm-hmm.

468  
469 NEIL DUNN: ...which seems to me, that would give you the proper use, would give you reasonable use of your  
470 property and I guess I'm having trouble determining that insurance premiums are enough to change zoning or  
471 to step into a zoning problem.

472  
473 BOB LEES: I can put up a two-stall twenty four (24) by twenty four (24) garage for about twelve (12), fourteen  
474 thousand (14,000) dollars. If I have to attach it, now I have to get contractors in there and a quote payment at  
475 almost fifty thousand (50,000) dollars to put on a two-stall garage. I have them with me, I can show them to  
476 you. Okay? So, when I start looking at fifteen thousand (15,000) dollars versus fifty thousand (50,000) dollars,  
477 I'm gonna ask for the variance to put up a detached garage.

478  
479 MATT NEUMAN: That's quite a discrepancy.

480  
481 BOB LEES: Yes, sir. I got the paperwork here to show you if you'd like to see them.

482  
483 JIM SMITH: Is it the same contractor?

484  
485 BOB LEES: Contractor to do it on a detached is myself. To do the...

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487 MATT NEUMAN: Oh, okay, so you're talking if you're gonna do the detached, you're gonna do that yourself.

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489 BOB LEES: Yes, sir.

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MATT NEUMAN: Well, then, obviously there's gonna be some...

[overlapping comments]

MATT NEUMAN: ...that's why you're choosing to do it by yourself.

BOB LEES: Not fifty thousand (50,000) dollars, though, I mean...

MATT NEUMAN: That does seem a little pricey to be putting up a garage, but...

BOB LEES: Yup. I even asked to try and break it down over a couple...you know...

JAY HOOLEY: I'm stuck on this number five as well, as far as the hardship because you do have the option with this lot to simply go...to pick a number ten (10) feet back and then ten (10) to the left and the property could then be used without a variance at all. With a garage.

BOB LEES: Well, you say ten (10) feet.

JAY HOOLEY: Approximately.

BOB LEES: Another ten (10) feet, so you're talking it would go to fifteen (15) feet from the lot line, that's what you're telling me?

JAY HOOLEY: Yes, an additional ten (10). If you went back, you could then meet the fifteen (15).

BOB LEES: I don't think so. I have a deck back there.

JAY HOOLEY: In the drawing that you have provided us, what is the distance between the home and the garage?

BOB LEES: From the home and the garage?

JAY HOOLEY: Yup.

BOB LEES: As it sits there on the drawing, the front page, the front corner of the garage to the back corner of the home, right there by the walkway...

JAY HOOLEY: Yeah.

BOB LEES: ...will approximately be ten (10) feet,

MATT NEUMAN: Yeah, I think we talked about that. And if we moved it seven feet, then we're looking at the twelve (12) foot setback as opposed to a fifteen (15) foot setback.

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JIM SMITH: So how wide is the deck?

BOB LEES: The deck is almost as wide as the house right there at that end. It is...

JIM SMITH: It looks like it's at least five (5) feet.

BOB LEES: Short.

JIM SMITH: Short.

BOB LEES: Mm-hmm.

MATT NEUMAN: So, can you get two (2) more feet out of there? If you moved it back a little?

BOB LEES: I'd have to take another look. I know I looked at it and it just didn't work for me, how close I want it to the deck.

MATT NEUMAN: Right. No, I mean, obviously it's not what you're ideal [indistinct] what you're looking for but...

BOB LEES: Aesthetic-wise, no.

MATT NEUMAN: But in order to meet the...

BOB LEES: Mm-hmm. I hear what you're saying but aesthetic-wise...

JAY HOOLEY: Yeah.

BOB LEES: Yeah.

JIM SMITH: I think where we're all going is, we have to be convinced there isn't a reasonable way for you to install this garage in conformance with the fifteen (15) foot setback in this case and I can't...I'm not convinced that you have made your case at this point.

BOB LEES: Well, again, I can push it way back but, you know, I'm just giving myself a headache that I was trying to get away from.

MATT NEUMAN: Mm-hmm.

BOB LEES: And that was the winter maintenance of a driveway and I'm trying to put the garage in there [indistinct] I just wanna be able to put them under cover and the wintertime and I don't want to take care of a hundred (100) foot long or a hundred and fifty (150) foot long driveway just to get the garage further enough back away from the lot line. That just doesn't make good sense to me.

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MATT NEUMAN: Right. And, you know, we have to look at each individual parcel on its merits and what...

BOB LEES: And I guess the question I come into is I know the ordinance here about being able to put up detached garages without proper lot line clearance because the neighborhood doesn't have one. The neighborhood has one. Why doesn't...you have to start somewhere.

MATT NEUMAN: Right, but again, you've got to look at the individual property.

BOB LEES: Yup.

MATT NEUMAN: And, you know, does this property have characteristics that make it unique in the sense that there's no other place to put this and if you're back lot line was something where you didn't have the land to push it back....

BOB LEES: Mm-hmm.

MATT NEUMAN: ...that would be a different story. In this case, it looks like you do have some room to move it and it's not exactly where you want it to be but is there some place where you can push it back maybe to make it work and I think that's the problem that the Board is having right now. And...

BOB LEES: Mm-hmm.

JIM SMITH: To clarify where I'm going at; if this, your property, had a severe drop off beyond where you wanna place it, then that would be something we could hang our hat on.

BOB LEES: Mm-hmm.

JIM SMITH: But you're essentially telling me that this is pretty much a level lot, so it's not difficult to move it back and forth and it's not going to create that much of an additional burden to build it fifteen (15) or twenty (20) feet further back. You're gonna end up with a slightly longer driveway. That's not an unusual length of driveway in this town. I've seen some extremely long driveways. Attaching it to the house; you're trying to justify that by saying you're gonna have a contractor do that versus yourself building it. Again, that's kind of a hard argument for me to accept. Throwing your insurance in, even that is a real stretch as far as I'm concerned because so many other homes have attached garages...

BOB LEES: I hear you. But I don't.

JIM SMITH: ...and it's not unusual to have an attached garage. So, anyway...

MATT NEUMAN: Any other questions from the Board? I don't know if anyone's ready to make a motion here or...

NEIL DUNN: Aren't you going to go into deliberations?

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JIM SMITH: Well, are we going to into discussion or...?

MATT NEUMAN: Yeah. If we're gonna pull it back, any other questions for the applicant before we pull back into deliberation? No? Is there anything else further you'd like to add before we pull it back?

BOB LEES: No, I'm just...I guess I'm a little confused. I understand that you have an ordinance and you...but I guess I need to know where's the starting point? If a neighborhood doesn't have one, I would have been okay for a lot line adjustment but you have an ordinance for it and just because nobody else in the neighborhood has one, where do you start?

NEIL DUNN: We start based on the five points and is there a reasonable way for you to obtain the same use which is a legal thing and that's all we can really go by are those five questions and that's what we have to use.

BOB LEES: Mm-hmm. Yup. Alright.

NEIL DUNN: And so if there was something special about the property, then that would be taken into consideration, would satisfy 5 (A)(b) or that...and then we also have to look at all those other five points.

BOB LEES: Mm-hmm.

NEIL DUNN: I mean, that's what we use. That's all we can legally use. We can't say, 'gee, we'd love you to have the garage.' I mean, we can't arbitrarily do that.

BOB LEES: Mm-hmm.

NEIL DUNN: Or we're not supposed to, at least.

BOB LEES: Well, I guess I'm just saying that if the other parts of then neighborhood, one of the criteria is is that the neighborhood has to lend itself to it or what have you...

MATT NEUMAN: Right.

BOB LEES: It needs to start somewhere. That's all.

MATT NEUMAN: Alright, we're gonna pull it back into deliberation.

DELIBERATIONS:

MATT NEUMAN: Anyone wanna start us off here?

LARRY O'SULLIVAN: You're waiting for me.

MATT NEUMAN: Never, Larry.

667 LARRY O'SULLIVAN: I had the impression that this wasn't going to be very intrusive whatsoever on the  
668 neighbors, especially if it could be moved to the, what was it, twelve (12) foot line.  
669  
670 MATT NEUMAN: Twelve (12), yeah. We're talking three (3) feet.  
671  
672 LARRY O'SULLIVAN: I wouldn't have any issue with that. Primarily because I believe his case about having a  
673 lengthened driveway and closer to the building would detract from the lot as opposed to make it nice or more  
674 attractive that this could be.  
675  
676 MATT NEUMAN: Right, because, we are in agreement, I think, what's he gotta go back, like about ten (10) feet  
677 in order to...?  
678  
679 NEIL DUNN: Not even. Not even.  
680  
681 LARRY O'SULLIVAN: Several feet anyway. Six (6) or seven (7) anyway.  
682  
683 MATT NEUMAN: Well, no, back towards the lot.  
684  
685 LARRY O'SULLIVAN: Backwards and length wise.  
686  
687 MATT NEUMAN: Back and then to the left.  
688  
689 LARRY O'SULLIVAN: To the left. Right. Which he said he would be able to live with. And that, to me, that  
690 would also be aesthetically pleasing, that it would be less of an impact in the buffer zone, which I didn't think  
691 was being impacted all that greatly from the look of it because you do have the separation of the wall, you do  
692 have the separation of the hill, the minor hill, low hill there.  
693  
694 MATT NEUMAN: Mm-hmm.  
695  
696 LARRY O'SULLIVAN: And I think that that's sufficient as far as I'm concerned to be unique. You don't see many  
697 houses or driveways with a wall and a hill separating lots or in that type of a buffer because that's where that  
698 is. That's right in the buffer.  
699  
700 MATT NEUMAN: Right.  
701  
702 NEIL DUNN: I still have trouble, I guess, getting around five, though, I really don't see any special conditions of  
703 the property that lend us to that when there's a reasonable way, if we go to five (B), he can get use of what  
704 the variance is for. It's just tough to go around that when it doesn't look that hard to do. A couple feet back  
705 and all you're looking for is three (3) feet separation, so I'm having trouble getting past five. I guess that's all.  
706  
707 MATT NEUMAN: Mmm.  
708  
709 NEIL DUNN: I don't really see anything special about the property other than wanting to locate the garage in  
710 that...  
711



712 MATT NEUMAN: I mean, I guess, is it reasonable to have a garage, you know, that far back, away from the  
713 house? I don't know. I mean, that would be the only...

714  
715 LARRY O'SULLIVAN: It's not unreasonable. We see it all the time.

716  
717 MATT NEUMAN: Yeah.

718  
719 JIM SMITH: Yeah.

720  
721 LARRY O'SULLIVAN: It's just that on this lot, with the drive straight in and the hill on the right, to the left, and  
722 then building into the hill in the rear, I mean, that's...you don't see that very often.

723  
724 JIM SMITH: Well, he's saying that the land is pretty much level after that point.

725  
726 LARRY O'SULLIVAN: What I can see in the pictures and what I've seen on drive-by's is that it is fairly level by  
727 comparison to my house, it is. But that's not what the issue is. The issue really is that he has hills on each of  
728 the sides of the driveway...

729  
730 JIM SMITH: Yeah.

731  
732 LARRY O'SULLIVAN: ...that he's gonna try and make it ramp in there? I mean that's, I don't know, I guess that  
733 would kind of detract from it, as far as I'm concerned. But I just tried to look at the aesthetic side, how it  
734 would affect the neighborhood besides his property. And that, to me, worked. That's just an opinion, though,  
735 it's mine. And that also is the reason, Neil, that I had the five (B) part of the variance requirements because  
736 he's got what he's literally got with the driveway, not literally, I'm sorry, what he's got with the driveway is a  
737 lower driveway than all the land that's surrounding it...

738  
739 MATT NEUMAN: Mmm. Well, that is one thing to look at.

740  
741 NEIL DUNN: No matter what he does, though, if he's putting in a foundation, attached or detached, you're  
742 gonna be excavating and it's not a whole lot to move there. I mean, to me, it doesn't look like an obstacle, I  
743 guess is my point. You have to go in there and put in your footings and excavations and...

744  
745 JIM SMITH: Yeah, he still has to put a foundation in.

746  
747 NEIL DUNN: Mm-hmm.

748  
749 JIM SMITH: It has to go down at least below frost step, which is approximately four (4) feet. I believe there is  
750 reasonable alternatives to the five (5) or even the twelve (12) foot variance to build a garage on this particular  
751 piece of property. I don't think, just like Neil says, I don't see anything that's unique that makes this piece of  
752 property stick out differently from other pieces of property.

753  
754 LARRY O'SULLIVAN: Or his neighbors [indistinct].

755  
756 JIM SMITH: Even the neighbors.

757

758 MATT NEUMAN: Right.

759

760 JIM SMITH: That whole area is relatively flat for the most part. There is some hills but I think a lot of these  
761 lots are pretty level.

762

763 MATT NEUMAN: Sounds like you want to make a motion, Jim. To me, that's what that sounded like.

764

765 LARRY O'SULLIVAN: Well, he did show the picture of his neighbor, 19 Kitt where the house his built  
766 significantly higher than the garage, so...

767

768 JAY HOOLEY: That one is a different scenario because if you had to move it in, you'd have the left side of your  
769 garage fifteen (15) feet in the air...

770

771 LARRY O'SULLIVAN: That's why I mentioned it, yeah.

772

773 JIM SMITH: That has something different that's unique. 'Cause if you look in the next picture down, it looks  
774 pretty level between those...on the 23 side.

775

776 LARRY O'SULLIVAN: You mean with the wall there, yeah.

777

778 MATT NEUMAN: Alright, is there anyone ready to make a motion here? Are we...?

779

780 JAY HOOLEY: I'll make a motion. I move that the Board deny variance request 7/20/2011-1 for Robert and  
781 Christine Lees for a setback based on the finding that alternative options are available.

782

783 LARRY O'SULLIVAN: Do you want to do 'reasonable options' are available?

784

785 JAY HOOLEY: Yes.

786

787 MATT NEUMAN: There's a motion to deny the variance.

788

789 JAY HOOLEY: Yes.

790

791 JIM SMITH: I'll second.

792

793 MATT NEUMAN: Motion's been seconded. All those in favor, say 'aye.'

794

795 JAY HOOLEY: Aye.

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797 JIM SMITH: Aye.

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799 NEIL DUNN: Aye.

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801 MATT NEUMAN: Aye. Those opposed?

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LARRY O'SULLIVAN: Aye.

MATT NEUMAN: In opposition or in favor?

LARRY O'SULLIVAN: Opposition to the motion. So you got four (4) to one (1).

MATT NEUMAN: Okay, just checking.

RESULT: THE MOTION TO DENY CASE NO. 7/20/2011-1 WAS APPROVED, 4-1-0

RESPECTFULLY SUBMITTED,



NEIL DUNN, CLERK

TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

**APPROVED AUGUST 17, 2011** WITH A MOTION MADE BY LARRY O'SULLIVAN, SECONDED BY JAY HOOLEY AND APPROVED 5-0-0.