

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

DATE: NOVEMBER 16, 2011

CASE NO.: 11/16/2011-1

APPLICANT: MARK DAVID AND MARI ANN THIBODEAU
56 SOUTH ROAD
LONDONDERRY, NH 03053

LOCATION: 56 SOUTH ROAD, 4-3-2, AR-I

BOARD MEMBERS PRESENT: JAMES SMITH, ACTING CHAIR
LARRY O'SULLIVAN, VOTING MEMBER
JAY HOOLEY, VOTING ALTERNATE
VICKI KEENAN, ACTING CLERK

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

REQUEST: VARIANCE TO ALLOW A DETACHED GARAGE WITHIN THE SIDELINE
SETBACK WHERE FIFTEEN FEET IS REQUIRED BY SECTION 2.3.1.3.3

PRESENTATION: Prior to the case being read into the record, J. Smith announced that with only four Board members present, the applicant would have the choice to continue the case to the following month when five members may be available or proceed with only four members. J. Smith explained that the applicant would need three out of four votes in favor of approval to have their request granted, whereas if a full Board was present, they would have the opportunity to present to five members in hopes of receiving three in favor of approval. Case No. 11/16/2011-1 was read into the record with no previous cases listed. The acting Clerk read Exhibits "A" and "B" into the record.

JIM SMITH: Who will be presenting?

MARK THIBODEAU: Mark Thibodeau. Want me to stand up?

JIM SMITH: Sure, or you can...

LARRY O'SULLIVAN: He has to have the option...

JIM SMITH: What?

VICKI KEENAN: Do you wanna ask him...?

46 LARRY O'SULLIVAN: Ask him if he wants the option.

47

48 JIM SMITH: Yeah, yeah. Do you wanna continue tonight with four (4)?

49

50 MARK THIBODEAU: Sure. Please.

51

52 JIM SMITH: Okay.

53

54 MARK THIBODEAU: That would be great.

55

56 JIM SMITH: You could either stand at the mic or sit down, whichever is more comfortable.

57

58 MARK THIBODEAU: My name is Mark Thibodeau. I live at 56 South Road. Do you want me just to read this?

59 This is the first...first one...

60

61 JIM SMITH: Why don't you give us a little background about what happened and then...

62

63 MARK THIBODEAU: Well, what originally happened was these...the steel structure that I built was...they're all
64 advertised online as being temporary structures, so that was one of the reasons why I didn't run out to get a
65 building permit. There was already a structure in place there and all I pretty much did was put sides and a
66 front and a back on it with a garage door on it. I did ask those two people more than once in regards to if they
67 had a problem with it and I certainly wouldn't have put it on anybody else's land. Unfortunately, what's
68 happening right...my wife has just came down with something last year that's pretty serious and the
69 temperature changes are really bad for her health and I have two little ones as well that I want to get in and
70 out and have a garage in a safe manner. That being said, that South Road, we all kind of know it, it's a busy
71 street. It's a lot safer if they can be in an enclosed drive before they get out of the car. That being said...

72

73 JIM SMITH: Okay, then why don't you go down through the various points so you can address the...

74

75 MARK THIBODEAU: In no way will the structure devalue abutter's property values. Direct abutters were
76 asked well in advance of this hearing. I have their statements to prove it, as you already read. As you can see,
77 there's no adverse effects on public interest. I understand why setbacks are, in fact, required, but feel there
78 was no other place to put this structure. I was under the impression this structure didn't actually, in fact, need
79 a permit or setback guidelines due to the materials used to build it. These metal structures are advertised as
80 temporary structures. And I will gain a safe haven for my family and it won't affect or threaten public health,
81 safety, or welfare. This structure will not diminish the surrounding property values, not is it an eyesore, as
82 stated by direct abutters. I have only added to the value of my home since I moved in twelve (12) years ago.
83 Behind the structure is my well, so I couldn't put anything physically in my backyard. And to the left is my
84 septic and I needed this on a daily...daily garage units for my wife to go in and out, so that was the reason why
85 I put it there. And then I'm just going into saying my wife was recently diagnosed with MS, therefore extreme
86 temperatures and other conditions make it difficult for her. The one (1) car garage under isn't big enough for
87 her car, so we can't utilize that for that, so that's why I needed them to be in a safe enclosed structure. That's
88 pretty much the gist of the whole situation at hand.

89

90 JIM SMITH: Okay. Anyone have any questions?

91
92 LARRY O'SULLIVAN: Sure, what was there before?
93
94 MARK THIBODEAU: What was there before?
95
96 LARRY O'SULLIVAN: Mm-hmm.
97
98 MARK THIBODEAU: A similar carport structure.
99
100 LARRY O'SULLIVAN: Does it have foundations?
101
102 MARK THIBODEAU: What's that? It's...
103
104 LARRY O'SULLIVAN: Footing?
105
106 MARK THIBODEAU: It's just a...yeah, it's a slab underneath it.
107
108 LARRY O'SULLIVAN: Okay, does it qualify, Richard, as a garage as Mr. Thibodeau is just describing?
109
110 RICHARD CANUEL: By our regulations today, for new structures that exceed four hundred (400) square feet,
111 it's required to have permanent footings of some sort.
112
113 LARRY O'SULLIVAN: The other...the one that has been replaced was less than four hundred (400) square feet?
114
115 RICHARD CANUEL: I don't know what the size of the previous one was. This one certainly is beyond the four
116 hundred (400) square feet, so...
117
118 MARK THIBODEAU: It's like four hundred (400) and some change, actually.
119
120 RICHARD CANUEL: Yeah. Yeah.
121
122 MARK THIBODEAU: Not too much, yeah.
123
124 JIM SMITH: Yeah, that was a question I was gonna ask. How big is this thing?
125
126 MARK THIBODEAU: The footing is twenty (20) by twenty five (25).
127
128 JIM SMITH: So what do you have for a foundation at this point?
129
130 MARK THIBODEAU: A six (6) inch slab. A cement slab.
131
132 LARRY O'SULLIVAN: Is that new or is that...has that been replaced?
133
134 MARK THIBODEAU: That's...yeah, it's new.
135

136 LARRY O'SULLIVAN: And you did all this without a permit?
137
138 MARK THIBODEAU: Like I said before, I wasn't aware that I needed one 'cause of the way it was advertised.
139
140 JIM SMITH: Is it one of these monolithic slabs or...?
141
142 RICHARD CANUEL: Well, the thing is, it didn't even go that far to find out the construction of the building.
143
144 LARRY O'SULLIVAN: Size wise, it fits...
145
146 RICHARD CANUEL: That's, yeah...
147
148 LARRY O'SULLIVAN: That's...
149
150 RICHARD CANUEL: It got into...it was more the location of the structure, so...
151
152 LARRY O'SULLIVAN: Yeah.
153
154 RICHARD CANUEL: ...we didn't even discuss, you know, the construction of the building, so I have no idea
155 what's there.
156
157 JIM SMITH: Okay. How close to the property line?
158
159 RICHARD CANUEL: This gentleman could tell you that.
160
161 MARK THIBODEAU: Yeah, I certainly can.
162
163 RICHARD CANUEL: It's right there.
164
165 LARRY O'SULLIVAN: Yeah, it looks from the drawing, it looks like it's...
166
167 MARK THIBODEAU: No, there's three (3) feet.
168
169 JIM SMITH: Three (3) feet?
170
171 MARK THIBODEAU: There's three (3) feet. But yeah, and I like I said before, that's pretty much the only spot
172 for that to go.
173
174 LARRY O'SULLIVAN: And the structure before, did it have walls?
175
176 MARK THIBODEAU: No, it didn't have walls. It had a roof on it. It was more like a carport structure.
177
178 LARRY O'SULLIVAN: So it was a standalone carport, no...does it have electricity or anything like that?
179
180 MARK THIBODEAU: No.

181
182 LARRY O'SULLIVAN: So it's a...
183
184 JIM SMITH: How old was that?
185
186 MARK THIBODEAU: That was there for quite a while, actually. That's been there for, I don't know, a good,
187 probably five (5), six (6) years anyway.
188
189 LARRY O'SULLIVAN: Did you put it in or...?
190
191 MARK THIBODEAU: I'm just of kind...yeah, people drive by it every day, so...and I've had enough people that
192 have asked me about it, so...Did I put it in?
193
194 LARRY O'SULLIVAN: Yeah.
195
196 MARK THIBODEAU: Yeah, I bought it, sure. Yeah, I definitely bought it.
197
198 LARRY O'SULLIVAN: I'm talking about the prior one.
199
200 MARK THIBODEAU: Yes, I bought that as well, sir.
201
202 LARRY O'SULLIVAN: Oh, okay.
203
204 JIM SMITH: So that was put up without any kind of permit, either.
205
206 MARK THIBODEAU: Yeah, well, once again...once again, you know, I'd tell you if I was stopped at that point, I
207 definitely wouldn't have...we wouldn't be here. We probably wouldn't be sitting here right now, 'cause I
208 would have definitely got the proper permits for that or at least tried to, but...
209
210 LARRY O'SULLIVAN: You mentioned that you have neighbors at 118 Chase. Their garage is attached...I'm
211 sorry, detached and past their house, right? They went to a great deal of trouble not to build within fifteen
212 (15) feet of the property line. Or the people who put that garage there, at 118...we have the overhead views
213 of the lot, the layouts of your and theirs side by side...
214
215 MARK THIBODEAU: Sure.
216
217 LARRY O'SULLIVAN: ...and it is, in my opinion, the reason why they wouldn't or didn't build within that fifteen
218 (15) feet, because that thing that they built wouldn't fit there without being right on the property line. So
219 what you would have, if they did what you did, was your garage right next to their garage.
220
221 VICKI KEENAN: There's also a big elevation change. I know that lot.
222
223 MARK THIBODEAU: Yeah, this is not...this is...
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225 VICKI KEENAN: 'Cause we almost bought that house.

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LARRY O'SULLIVAN: There's a little bit of an elevation...

VICKI KEENAN: There's a big elevation change.

MARK THIBODEAU: Oh, there's a little bit, there's a lot of difference in elevation, sure.

LARRY O'SULLIVAN: Is it that big?

VICKI KEENAN: It's a big difference. We almost bought that house.

MARK THIBODEAU: Yeah.

LARRY O'SULLIVAN: What's the elevation change? How much?

VICKI KEENAN: That driveway? I don't know. I don't...

MARK THIBODEAU: It's probably thirty (30) feet difference, without a doubt...

VICKI KEENAN: But it was pretty steep.

MARK THIBODEAU: ...which is a huge...yeah, they're up on the hill, we're down low.

VICKI KEENAN: Mm-hmm. Can I ask a question?

MARK THIBODEAU: Sure.

VICKI KEENAN: So behind the carport or temporary garage is the location of your septic?

MARK THIBODEAU: My well.

VICKI KEENAN: Your well.

MARK THIBODEAU: Sure.

VICKI KEENAN: And then if you're looking at the house from the street, to the left is your leachfield?

MARK THIBODEAU: Yeah. Yes.

VICKI KEENAN: And so you put it on this side because that's the location of your driveway?

MARK THIBODEAU: Yeah, and that was the only sensible spot to put it. You can't just drive over your leachfield every...on a daily basis. It's not good for the leachfield.

VICKI KEENAN: Right.

271
272 MARK THIBODEAU: And I couldn't get up into the backyard. If you're looking at an overhead view of it, I
273 couldn't really get up into the backyard because either I was going by the leachfield or I was going by my well,
274 so there's no way of extending a driveway into the backyard.
275
276 LARRY O'SULLIVAN: Is that also elevated back there?
277
278 MARK THIBODEAU: It certainly is, yes.
279
280 VICKI KEENAN: Mm-hmm.
281
282 MARK THIBODEAU: It actually comes up to the same height as 118 Chase's garage.
283
284 LARRY O'SULLIVAN: So it climbs.
285
286 MARK THIBODEAU: It certainly does, yes.
287
288 LARRY O'SULLIVAN: Okay, so what we're trying to do is one of the things you have to have in order to have a
289 variance is show that there's some uniqueness to the lot and the reason why you put it where it is. Despite
290 the fact that you didn't get a permit for it in advance, what I would like to be able to see is that you have a
291 really unique position of that lot. Characteristics of the lot are so that you don't have much of a choice where
292 to put a garage at all on that lot. Does anybody else see that?
293
294 VICKI KEENAN: I agree with you but can I ask a question? Now why does your wife's car not...or how does
295 your wife's car not sit into the single car garage that you...?
296
297 MARK THIBODEAU: The under garage?
298
299 VICKI KEENAN: Yeah.
300
301 MARK THIBODEAU: It's a full size SUV. It would be absolutely...yeah. With the kids, I...that's a...As far as that,
302 I don't know what kind of views you're getting from what you're looking at. If you're looking at Google maps,
303 you can certainly see the elevation change to make a characteristic of it being unique.
304
305 VICKI KEENAN: No, I...
306
307 MARK THIBODEAU: It's certainly a unique lot.
308
309 VICKI KEENAN: Yeah.
310
311 MARK THIBODEAU: Without a doubt.
312
313 VICKI KEENAN: It really is. I've looked at that.
314

315 JAY HOOLEY: When driving...to the left of the house, it seems it's maybe an eight (8) foot bank in the left side
316 yard.
317
318 MARK THIBODEAU: Looking up to the backyard?
319
320 JAY HOOLEY: At the front of the house, from the street, towards the front of the house, the left side seems to
321 have a...
322
323 MARK THIBODEAU: Yeah, it's actually a lot more than eight (8)...
324
325 JAY HOOLEY: Is it?
326
327 MARK THIBODEAU: It's, like I said, you're probably, from my driveway it's a good, probably a thirty (30) foot
328 difference.
329
330 JAY HOOLEY: And on the right side of the house, it changes as you go further back?
331
332 MARK THIBODEAU: It certainly, yeah, it does. It does and it levels off at the next door neighbor's house which
333 is 118 Chase.
334
335 VICKI KEENAN: How big is the one car under garage? What's the square footage of that?
336
337 MARK THIBODEAU: Well...I honestly don't know.
338
339 VICKI KEENAN: Okay.
340
341 LARRY O'SULLIVAN: But it's one (1) car width?
342
343 VICKI KEENAN: Just curious.
344
345 MARK THIBODEAU: It's one (1) car width. It's an under garage and a full size Tahoe is...I can't even get it in
346 the door to be honest with you, so...My other vehicle is a full size Chevy truck, so neither one of those will fit
347 in our garage.
348
349 JAY HOOLEY: Question just to get my head around it. You've attached two (2) drawings from TJW Survey.
350
351 MARK THIBODEAU: Yes.
352
353 JAY HOOLEY: But those are dated that they were completed in 2007?
354
355 MARK THIBODEAU: They were indeed, for my addition to the house.
356
357 JAY HOOLEY: Okay.
358

359 MARK THIBODEAU: They were completed because I...I actually added a whole other level to this house back in
360 2007, so the reason why I used these was because...
361
362 JAY HOOLEY: You had them.
363
364 MARK THIBODEAU: ...I had 'em. Pretty much, I had 'em and I...
365
366 JAY HOOLEY: Couldn't reconcile the date, didn't know if it was a typo. So you were a split entry prior to...?
367
368 MARK THIBODEAU: It was, indeed.
369
370 JAY HOOLEY: Okay.
371
372 MARK THIBODEAU: It was, indeed.
373
374 JIM SMITH: Okay. Any other questions? Okay, I'll open it up to the audience. Anybody in favor of this?
375
376 JOE GANNON: Sure, we're neighbors also. We're on the other side of...
377
378 JIM SMITH: Would you approach one of the mics and give your name and address for the record please?
379
380 JOE GANNON: Sure. My name is Joe Gannon. I'm at 116 Chase Road, directly next to 118. You have a letter
381 form 118. I'm here with my wife, Joyce. We have four kids. We fully support this, especially for the fact that
382 Mark's wife has medical problems and we think that, you know, aesthetically it's fine, so we're in full support.
383
384 JIM SMITH: Okay, thank you.
385
386 JOE GANNON: Thank you.
387
388 JIM SMITH: Anyone else? Any other comments on your part?
389
390 MARK THIBODEAU: I don't have any more comments.
391
392 JIM SMITH: Okay. I'll bring it back to the Board. Any other questions? Okay, at that point, I'll close the
393 hearing and we'll go into deliberations.
394
395 MARK THIBODEAU: Thank you for your time.
396
397 DELIBERATIONS:
398
399 VICKI KEENAN: I think...I mean, my feeling on this is that the site conditions are such that there's no other
400 location to put this. I don't think it's an unreasonable request.
401
402 LARRY O'SULLIVAN: It's three (3) feet from the property line.
403

404 VICKI KEENAN: Right. But have you been...have you driven by the properties and how they...?
405
406 LARRY O'SULLIVAN: No, not that one.
407
408 VICKI KEENAN: I drive by it all the time and like I said, we almost bought the house adjacent to it. It's very
409 wooded in between, there's a huge elevation change and the fact is that he couldn't put it further back
410 because that's where his well is and the elevation change, he couldn't go left 'cause that's where the
411 leachfield is and he'd have to rebuild the driveway in order to get to it, so I think that the site conditions are
412 such that it's certainly warranted.
413
414 JIM SMITH: Any other questions, comments?
415
416 JAY HOOLEY: Yeah, I did look at it. The left side does...you'd have a...just a total wild ride for a driveway, I
417 guess, coming out of there. It'd be great on an ATV maybe, but I'm not sure it would be particularly safe with
418 a permanent means to the left side without completely reconfiguring the lay off the land.
419
420 LARRY O'SULLIVAN: So you ready for a motion?
421
422 JIM SMITH: Yeah, I know the only other possibility would be to move it back and put the well inside the
423 garage, which has been done on occasion. It's not the greatest thing in the world to do but...
424
425 VICKI KEENAN: Yeah, but the solution, the cost of the solution totally outweighs the means.
426
427 JIM SMITH: Yeah, I know.
428
429 VICKI KEENAN: Yeah.
430
431 JIM SMITH: I'm just saying that that has been done in the past.
432
433 VICKI KEENAN: Yeah.
434
435 LARRY O'SULLIVAN: Well, a solution would be buy a smaller car. But that's not the point. The point is...
436
437 VICKI KEENAN: Again, the cost, yeah.
438
439 LARRY O'SULLIVAN: ...this is what exists.
440
441 VICKI KEENAN: Yeah. Yeah.
442
443 LARRY O'SULLIVAN: This is what exists, so that's why we...
444
445 VICKI KEENAN: It's not always that easy. Yeah.
446

447 LARRY O'SULLIVAN: Mm-hmm. And a variance goes forever, so the next people who buy the house in a
448 hundred years may want a, you know, a real tiny...what are they called now? Those little Mini Cooper things,
449 and they'll drive that, so it'll fit underneath the house.
450
451 VICKI KEENAN: We may all be driving those someday.
452
453 LARRY O'SULLIVAN: In a closet.
454
455 VICKI KEENAN: I'll make a motion if there's no more discussion.
456
457 JIM SMITH: Okay.
458
459 LARRY O'SULLIVAN: Cutting me off, are you?
460
461 VICKI KEENAN: I am. It's my last chance, potentially.
462
463 JIM SMITH: She comes one night and she's gonna cut everybody off.
464
465 VICKI KEENAN: I gotta get it in.
466
467 JIM SMITH: Go ahead.
468
469 VICKI KEENAN: Okay. I'd like to make a motion to grant the variance to allow this garage within the sideline
470 setback for case number 11/16/2011-1.
471
472 LARRY O'SULLIVAN: And I'll second it.
473
474 JIM SMITH: Do we want to put a dimension in?
475
476 LARRY O'SULLIVAN: Since it already exists?
477
478 JIM SMITH: Well, I mean, like you said, this variance is forever. I mean, you know, we just say...
479
480 VICKI KEENAN: Can we say per the existing dimensions?
481
482 LARRY O'SULLIVAN: Wouldn't that be granted, Richard?
483
484 RICHARD CANUEL: Say that again?
485
486 JIM SMITH: In other words, the way the motion was written, there's no dimension on how close it can be to
487 the...
488
489 RICHARD CANUEL: Well, you could say "as presented," or, you know, "based on the site plan as presented."
490
491 VICKI KEENAN: Okay.

492

493 JIM SMITH: Yeah.

494

495 RICHARD CANUEL: Something to that effect.

496

497 VICKI KEENAN: Alright, so I'll amend my motion to add as presented, per the site plan in the application or as
498 well as per the existing conditions.

499

500 LARRY O'SULLIVAN: And I'll second it.

501

502 JIM SMITH: Okay. All those in favor?

503

504 LARRY O'SULLIVAN: Aye.

505

506 VICKI KEENAN: Aye.

507

508 JIM SMITH: Aye.

509

510 JAY HOOLEY: Aye.

511

512 JIM SMITH: I vote aye.

513

514 RESULT: THE MOTION TO GRANT CASE NO. 11/16/2011-1 WITH RESTRICTIONS WAS APPROVED, 4-0-0.

515

516 RESPECTFULLY SUBMITTED,

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519

520

521 VICKI KEENAN, ACTING CLERK

522

522 TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

523

524

524 **APPROVED JANUARY 18, 2012** WITH A MOTION MADE BY LARRY O'SULLIVAN, SECONDED BY J. SMITH AND
525 APPROVED 3-0-2 WITH M. NEUMAN AND N. DUNN ABSTAINING AS THEY HAD NOT ATTENDED THE MEETING.