

**TOWN OF LYNDEBOROUGH  
ZONING BOARD OF ADJUSTMENT  
MEETING MINUTES  
January 3, 2013**

**MEMBERS PRESENT:** Chairman Tom Christenton, Lee Mayhew, Richard Roy and Alternate John Redemske, (Karen Grybko arrived at 7:10)

**GUESTS:** Marcy Stanton; Atty. Thomas Quinn and Frank Kling; Louis Springer

T. Christenton began the meeting at 7:00 p.m. noting that John Redemske would be voting in the absence of a full member.

**PUBLIC HEARING:**

**Marcy Stanton Rev. Trust; Marcy Stanton, Trustee; 1414 Center Road; Map 226 Lot 010-000; variance for detached garage located in setback; Rural Lands I.**

Present: Marcy Stanton

T. Christenton said that Ms. Stanton was requesting a variance for an 18' x 24' garage to be built within the 50' front setback. The plan shows that there's thirty (30) feet from the edge of the garage to the property line; twenty (20) feet less than required. He asked Ms. Stanton to explain how the five reasons for a variance have been met.

**#1 Variance will not be contrary to the public interest because.....**

The septic system/leach field and the well are located close to the residence. There are wetlands on the side and back of the property. There isn't any other place but the front of the property to construct a garage.

Lee Mayhew asked why a garage was needed. Ms. Stanton explained that a handicap ramp was to be built from the house to garage to accommodate wheelchair access. It was noted that the garage is not attached to the house.

**#2 Special conditions exist such that literal enforcement of the ordinance results in an unnecessary hardship because.....**

Wetlands and leach field consume most of the property area and there isn't any other place to construct a garage.

Lee Mayhew asked if there would be a cover over the ramp for shelter. Ms. Stanton said that a portico has been built over the front entrance door but presently there is no plan for a shelter over the ramp.

**# 3 Variance is consistent with the spirit of the ordinance because.....**

The ordinance states that the garage should be fifty (50) feet from the property line, but there's twenty (20) feet less than required. The conditions of the lot prevent placing the garage any further back.

John Redemske noted that there isn't any impact to the side setbacks; it's only closer to the road.

**#4 Substantial justice is done because.....**

Substantial justice will be done if Ms. Stanton is allowed to construct her garage within the setback. There will be accessibility to the residence for the wheelchair via a ramp. The other three sides of her property have obstructions because of wetlands and a septic system.

**#5 Value of surrounding properties will not be diminished because.....**

There isn't any impact to surrounding properties because the neighbor's house across the road is not close and her residence is not visible to other neighbors on each side of her property. The addition of a garage will enhance the value of the property and bring in tax revenue for the town.

Lee Mayhew said that the whole issue of the variance request is driven by the need to ease and protect wheelchair accessibility. Ms. Stanton agreed but also said that it was needed for storage, as well.

T. Chrisenton asked for abutter response. Karen Grybko, an abutter to the north of Ms. Stanton, said that she did not have any issues and thought that a garage would enhance the neighborhood; most residences in the area have a garage.

**VOTE:** Richard Roy made a **motion to approve the request for a variance for a detached garage in the setback.** Lee Mayhew seconded the motion and the VOTE in favor of the approval was unanimous.

*Karen Grybko, having recused herself because she is an abutter to Ms. Stanton, took her seat for the next public hearing.*

**Patricia Robbins Whitney; Mountain Road; Map 210 Lot 012-000; variance from setbacks on a lot of record; Rural Lands 2**

Present: Atty. Thomas Quinn and Frank Kling of Elite Construction; abutter Louis Springer

T. Chrisenton said that Frank Kling of Elite Construction was requesting an area variance to build a single family residence with two bedrooms on a .2 acre lot of record which is located on Mountain Road.

Atty. Quinn, representing Mr. Kling, asked to discuss a preliminary matter concerning an outdated form for an area variance which he found on the town's website. New language was adopted and went into effect in January 2010. T. Chrisenton informed Atty. Quinn that the Board was to review these new forms at the end of this meeting.

Atty. Quinn said that he would be using applicable law in his presentation and noted that RSA 674:33 allows the Zoning Board authority to grant relief from strict terms of the zoning ordinance, if the five requirements are met.

**#1 and #2 variance will not be contrary to the public interest and is consistent with the spirit of the ordinance because.....**

The first two tests are similar. Under existing case law, it is the obligation of the ZBA to judge whether granting a variance is not public to the contrary interest and is consistent with the spirit of the ordinance and must determine whether to grant the ordinance unduly and in a marked degree conflict with the ordinance, such as violates the ordinance's basic zoning objectives. It must determine that granting the variance will alter the essential nature of the neighborhood or threaten the public health safety and welfare of the town.

In his opinion, the proposed use would not unduly in a marked degree conflict with the ordinance or violate the ordinance's basic zoning objective. The obvious objective to the zoning ordinance in this case is to prevent an undue concentration of housing, unsustainable density, blight, etc. This is a lot of record that has existed since 1898 and has not changed. (A copy of the deed was submitted at this time)

T. Chrisenton read the language in the town's zoning ordinance under Section 1302:00 Lots of Record. Atty. Quinn understood that this parcel is a grandfathered lot of record and is a Permitted Use. If they could meet the setback requirements, there wouldn't be a problem but because of the lot size and the severity of the setbacks, the requirements cannot be met. The 8000 sq. ft. lot has 80 ft. of frontage and 100 ft. of depth; therefore the setbacks consume the lot.

Atty. Quinn explained that the two car garage will be under the dwelling and an approved septic design is noted on the plan. John Redemske asked if a driveway permit was granted. Atty. Quinn replied no; it was suggested that the variance should be granted before going before the Building Inspector or Road Agent for a permit. He noted that the sight distance was not a problem.

**#3 Substantial justice is done because.....**

In the spirit of the ordinance, the grandfather law was to protect lots of record; in many instances, it is possible to take a substandard lot and meet the requirements. Because of the unique nature of the lot and the proposal is a modest one, substantial justice is done. In asking the Board to reduce the setback, they are proposing a smaller dwelling with two bedrooms. Lee Mayhew asked for the dimensions of the house. Mr. Kling said that the house size will be 36' x 40' and includes a 20' x 20' ft. garage underneath (photograph of the proposed house design was submitted). Atty. Quinn said that the engineer came up with the 15 ft, 25 ft setbacks to be able to fit a reasonable size house in the building envelope. T. Chrisenton asked where the deck was located. Mr. Kling replied that it was in the rear, cantilevered over the septic system area.

**#4 Value of surrounding properties will not be diminished because.....**

The proposed use is a permitted one and is reasonable in light of the size of the lot; no diminishing value to the surrounding properties will occur if the variance is granted. Atty. Quinn submitted a letter from Bobby Gaudette, the listing realtor for the Bean Group who states that because it is a single family home it would have no adverse effect on the property value in the neighborhood. Karen Grybko said that she liked the photo of the proposed dwelling since the structure will be located only 25 ft from the road and visible in the neighborhood.

**#5 Special conditions exist such that literal enforcement of the Ordinance results in unnecessary hardship...**

The special conditions of the lot, its size, configuration, location, etc distinguish it from other properties in the area and no fair and substantial relationship exists between the general public purposes of the ordinance and its specific application of the provision to the property. The proposed use is a reasonable one. It's a small house with two bedrooms on a slab; a modest proposal for a home and well suited to the size of the lot. The septic design will not support more than a two bedroom home. The literal interpretation of the ordinance precludes from the owner from building anything. Because single family dwelling are the only permitted use in this zone, it effectively denies any other use of the property. It is a unique lot surrounded by large acreage parcels that can meet all zoning requirements. The purpose of the ordinance is to prevent blight, crowding and inadequate distance between structures, i.e. over development of the lot. In their proposal, the building envelope is approximately 1/3 the size of the lot (2500 sq. ft.). By building a smaller house and locating it in such a way that it doesn't overdevelop the lot; this is a reasonable request.

T. Chrisenton asked for questions from the abutters. Mr. Springer asked for the setbacks and was told 15 ft on the sides and 25 ft. on the front and 35 ft. on the back. He was shown where the well and the septic system would be located. John Redemske voiced

concern about vehicles being parked in the driveway. Karen Grybko thought the house style suggested was reasonable. Lee Mayhew did not think limiting the number of cars could be enforced. Mr. Springer asked if business equipment would be stored on the property and Mr. Kling responded no. Appearing satisfied, Mr. Springer did not have other issues.

Having no further questions, T. Chrisenton and the Board deliberated on suggested conditions to be placed on the variance, i.e. structure to be built similar to the footprint shown; no building in the area over the septic system; number of vehicles to be stored in the garage and the building constructed so it doesn't detract from the neighborhood.

**VOTE:** Lee Mayhew made a **motion to approve the area variance from the setbacks subject to the following conditions: build to the conformity of the house plan presented (photograph attached) and according to Meredian's septic design dated October 11, 2012 (Project 7917.01).** Richard Roy seconded the motion and the VOTE in favor was unanimous.

**OTHER BUSINESS:**

T. Chrisenton said that he would send out, through e-mail, the new updated forms for a variance, special exemptions, appeals, etc. These forms will be discussed at the next meeting. He also said that the fee schedule should be a topic for discussion, as well.

T. Chrisenton mentioned that more Alternates are needed on the Board and that this was the last meeting for Alternate John Redemske. He said that Scott Roper has shown interest in becoming an Alternate and could replace John Redemske.

**VOTE:** Lee Mayhew made a **motion to approve Scott Roper as an Alternate to replace John Redemske.** Richard Roy seconded the motion and the VOTE for approval was unanimous.

**ADJOURNMENT:**

T. Chrisenton made a **motion to adjourn the meeting at 8:25 p.m.** Richard Roy seconded the motion and the vote in favor of adjournment was unanimous.

The next meeting will be held on Thursday, February 7<sup>th</sup> at 7:00 p.m.

Pauline Ball  
Recorder