

TOWN OF LYNDEBOROUGH
Zoning Board of Adjustment
Meeting Minutes
June 25, 2019
Draft 1

7:15 PM Call to Order & Roll Call

Member Present: Chairperson Karen Grybko, Vice Chair Rick Roy, Lisa Post, Tom Chrisenton and alternate Pam Altner who will sit on the Board.

Public present: Ellie McGuire, John McGuire, and abutter Jerald Reneau

New Business:

Case 2019-1: Ellie and John McGuire. Map 235, Lot 16, 124 Purgatory Falls Road

Ellie and John McGuire are before the ZBA requesting a variance from Section 702.3 for Setback requirements. They would like to construct a barn 20 feet from the property line of their abutter.

Both the present and former Building Inspector/Code Enforcement Officer visited the property at 124 Purgatory Falls Road over the past three years during the planning stage. Building Inspector/Code Enforcement Officer Leo Trudeau denied their building permit due to setbacks as seen in the May 3, 2019 letter.

The applicant would like to build a garage that includes a bonus room on the second level. The house is 50 feet from the road but due to the topography of their land; the owners are limited on locations to build a garage. The way the garage would be situated, they would drive in past the house but straight into the garage. There would be room behind it for a root cellar.

Five Criteria (as set forth in NH RSA 647:33, I(b))

Criteria 1: Waiving the terms of the Ordinance will not be contrary to the public interest because:

Ellie McGuire explained the house sits 50 feet from the road. One option is to utilize a small flat spot next to the house but a garage would be only 20 feet from the road so a variance would be needed for that location as well. The problem with this option is the

ground drops six-feet next to the house therefore if a garage was to be built next to the house, the roof line would need to be redesigned because the roof is low. She felt that would be a big undertaking to do and structurally it's questionable if they could put it there.

The Board reviewed the photos plus a map dated Feb. 9, 1987 drawn by Robert Todd.

The applicant also looked at putting a garage alongside the house but it comes down to a steep angle of 15-20 feet which is not an easy walk. There is a lot of fill along the house on this entire side. The house sits on ledge and does not have a basement. In order to make this work it would require a retaining wall, removing about 100 trees and bring in a lot of fill.

Last year the McGuires had a builder look at the options and he estimated \$82,000.00 for the proposed location. If they turned the structure towards the house the price dramatically increased to \$156,000.00 with the bulk of the cost for excavation.

Mrs. McGuire referenced photos from Meridian dated July 27, 2018. She drew an orange marker on the map where they would like to build the garage. Images were obtained from Google Earth.

She explained there are four entrances between the walls. The former owner, Corey Cheever, was a builder and plowed in the winter. He used one of the "roads" on the property for his equipment and materials but the current owners abandoned the road for driving because to make the turn around the house the vehicle tilts.

From this conversation, it was determined that the proposed location would be 20-23 feet from an abutter's property line and not the road. The abutters are Tim and Margaret Croissant who are not here tonight but received a certified letter regarding the meeting. According the Ellie McGuire, the Croissant's would not be happy to see a roof line but would support this proposal if the roof can be rotated so they won't see it. They own a three-season camp but they may build a house on the property in the future.

The side setbacks are 35 feet and front setbacks are 50 feet. The proposed location would be 75-110 feet from the road and 20-23 feet from the abutter's property line.

For reference, in the last photo the truck is about 30 feet from the road and facing Purgatory Falls Road. Purgatory Falls Road is between the barn and the house and it's a steep hill with erosion issues. A walkway would be graded in order to make the walk easier from the house to the garage.

Criteria #2 Deviation from the strict requirement of the Ordinance is consistent with the spirit of the Ordinance because:

Ellie McGuire stated they want to keep the farm looking like a farm and prefer a “Barn Garage”. Corey Cheever built a stucco ranch that looks like it belongs in New Mexico. They believe this design of the garage will fit into the esthetics of the neighborhood. In this proposed location, they would drive in behind the house and it won’t be visible from the road.

Criteria #3 Granting the variance would do substantial justice because:

Ellie McGuire felt the other two options would cost a lot more for not a lot of value added to the property. The garage would be visible from the road in Option B, past the house, and a variance would still be required. They felt the proposed option offers the best cost value for a detached garage. In order to meet the zoning requirements, the walk could be 75 feet from the garage to the house which is a long way in the winter. They felt this would not be very attractive to future buyers.

Criteria #4 Value of surrounding property will not be diminished because:

The applicants felt that no one can say the future of land. This will not degrade the land. This option would be a less loss of woods. They felt the proposed option should not be a significant change to the surrounding area.

Criteria #5A Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship: (i) the following special condition of the property distinguish it from other properties in the area:

(i). The necessary hardship is ledge and topography.

Mr. Chrisenton asked if they select a different location in which they have to cut 100 trees and if so, are they facing the abutter also and would they see the garage. John McGuire replied the garage would be closer to the abutter’s house and it would encroach more on the abutter. Mr. Chrisenton phrased the question, “You meet the setback and you go back further but the visual impact is greater for abutter? Mr. McGuire responded, “Yes”.

(ii) No fair and substantial relationship exists between the general purpose of the Ordinance provision and the specific application of that provision to that property because: The McGuires are trying to avoid cutting down trees. The other options create a much bigger hole. If they built the garage closer to the road it would equate to cutting down all the trees along the roadway. They felt their proposal has the least impact to the neighborhood and the house.

(iii) The proposed use is a reasonable one because:

The applicants felt it's reasonable because of resale value and the reasons listed above. This is the best location for the garage. Currently, the house has no basement or garage. There is a workshop on the property that the owners use as their "basement storage".

The Chairperson opened the floor to abutters. The only abutter present was Jerald Reneau. He said his property abuts the other side of the McGuire property. He is curious about the size of the barn/garage and the visual impact. He was informed the plans presented are for a 32x26 feet structure and they talked about the visual impact.

Rick Roy asked if it's 32 feet that is encroaching on the ordinance. That is correct.

Currently, there is no site plan plus the location of ledge to the lot line is an unknown concern. After discussion, it was agreed to set a condition that the building won't encroach more than 15-20 feet from the southerly boarder lot line. The Building Inspector should verify this.

Lisa Post asked about the existing driveway. She was informed there are plans to modify the driveway a bit allowing for a straighter access to the second bay plus it is only one car width wide. A shed may have to be relocated. There is also a gas tank in that area.

Chairperson Grybko read a letter from ZBA member Linda Anderson into the minutes. Mrs. Anderson lives on Purgatory Falls Road but is not an abutter. She supports the variance. Mrs. Anderson could not attend tonight's meeting.

"Sorry I can't attend the meeting. I wanted to give my thoughts on the case. I'm not an abutter but live in near proximity therefore I am familiar with the property. In my opinion, there is no other logical place to have a garage. The lay of the land, the infamous ledge that runs through many of our properties in this area is another factor in placement of a building. The house was not built with keeping the setbacks in mind for future buildings. My opinion in this matter, the MaGuires should be granted the variance. I see no interference with the neighbor's views or noise level. I'm sure the design of the structure would complement the property and increase the value. –Linda Anderson"

Abutter Mr. Reneau was asked if he had any more comments before a vote was taken and he did not.

Criteria 1: Waiving the terms of the Ordinance will not be contrary to the public interest because:

VOTE: Rick Roy moved, Lisa Post seconded to waive the terms of the Ordinance. Motion passed 5-0.

T. Chrisenton agreed with this because, as the applicants stated, it will be more costly to build elsewhere and the visual part is great if they go elsewhere but he would like to pin down the distance from the lot line. After discussion it was agreed that 15 feet from the lot line would be sufficient and to amend the vote to include the condition.

Criteria #1 AMENDED VOTE: Rick Roy moved, Pam Altner seconded to approve waiving the terms of the Ordinance with the caveat that the limit is set back at least 15 feet from the lot line because to locate the garage in a different location would be considerable more costly; require additional tree cutting; would be closer to the abutter and would be detrimental not to allow it. Motion passed 5-0.

Criteria #2 Deviation from the strict requirement of the Ordinance is consistent with the spirit of the Ordinance because:

VOTE: Tom Chrisenton moved, Lisa Post seconded that this is consistent with the spirit of the Ordinance because to do otherwise would be counter-productive to the Ordinance and because of the reasons stated in the first criteria motion. Motion Passed 5-0.

Criteria #3 Granting the variance would do substantial justice because:

VOTE: Tom Chrisenton moved, Rick Roy seconded because of the reasons stated above. Motion passed 5-0.

Criteria #4 Value of surrounding property will not be diminished because:

VOTE: Tom Chrisenton moved, Lisa Post seconded because of the reasons stated above in criteria items 1-3. Motion passed 5-0.

Criteria #5A Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship: (i) the following special condition of the property distinguish it from other properties in the area:

VOTE: Rick Roy moved, Tom Chrisenton seconded to accept 5A in consideration of the topography which is the contour and the ledge. Motion passed 5-0.

VOTE: Lisa Post made a motion, Pam Altner seconded to grant the variance from section 702.3 for the garage to be a minimum of 15 feet from the lot line for Ellie and John McGuire, Lot 235, Map 16 at 124 Purgatory Falls Road for Case 2019-1. Motion passed 5-0.

Vote on Officers:

VOTE: Tom Chrisenton moved, Rick Roy seconded if the current officers are willing to accept a second term, to keep the same officers as last year. Motion passed 5-0.

Adjournment:

VOTE: Tom Chrisenton moved, Pam Altner seconded to adjourn at 8:03 p.m. Motion passed 5-0.

Respectfully submitted,

Kathleen Humphreys
ZBA Secretary