

LYMAN ZONING BOARD of ADJUSTMENT MINUTES

August 21, 2019

Call to Order: Chairman Robert Chenevert called the meeting to order at 6:00 pm.

Roll Call:

Members – Robert Chenevert, Michael O'Brien

Absent – David Simpson, Larry Schieman, Patricia O'Brien

Alternates – Debra Heathe

Chairman Chenevert seated alternate Debra Heathe in place of Larry Schieman.

Meeting Minutes:

The minutes for the July 24, 2019 regular meeting were reviewed. Michael O'Brien motioned to approve the minutes as written, Debra Heathe 2nd, all voted in favor.

Correspondence:

NH Town and City magazine July/August 2019 was provided. Nothing of importance to the ZBA was included in this edition.

Old Business:

The continued need for ZBA alternates was discussed briefly. This will remain on the agenda until this need has been met.

The ZBA Webinar Training was attended by Tabbetha Shosa. She has shared the training video that was provided to all of the registered attendees to all of the board members and alternates so that they might be able to take advantage of this great learning opportunity. A discussion about this training will occur in the upcoming meeting provided board members are able to watch the video.

New Business:

The Fall 2019 Land Use Law Conference is open for registration. Information on this course was provided and board members will let Tabbetha Shosa know if they are interested in attending so that she can assist with registration.

The board was made aware of the passing of Rosemary Colombi who served as a secretary to the ZBA in past years. The members in attendance spent a few minutes discussing fond memories of Rosemary and expressing their gratitude for her service to the board.

Public Hearing:

Chairman Robert Chenevert opened the public hearing at 6:20 pm to address the application for a variance received from Charlotte Landry et al & Gloria Burns et al for a property located at 101 Dodge Pond Rd, Map 216 Lot 012. The following people were present for the hearing:

Applicant: Gloria Burns
Abutter: None
Other Attendees: Bruce Beane
Selectmen Liaison: James Trudell

The hearing was noticed in the Courier, on the Town of Lyman Website, and posted at the Lyman Town Hall. Abutters were noticed via certified mail.

Chairman Robert Chenevert addressed Gloria Burns and explained that they did not have a full board as only three members were in attendance and therefore a unanimous vote would be required or it would result in a denial for variance. Chenevert asked if the Burns would like to continue with the hearing or if she would like to wait until the board was able to offer a full board. Ms. Burns stated that she would be fine proceeding without the full board. The application for the following variances in the Lyman Zoning Ordinance: Article 7 Section 701 – Minimum lot size 90,000 ft (2.07 acres) and Article 7 Section 704 - Side and Rear Yards was read aloud by Tabbetha Shosa. Chairman Robert Chenevert explained that only one variance request could be considered at a hearing. He then asked Ms. Burns if she would like to continue with a request for the two side walls or the storage shed and explained that she would not be able to have both heard. Ms. Burns stated that she would like to focus on their request to add two side walls to an existing roof structure so that they can safely store new equipment such as a log splitter without having to worry about winter elements. She then told the board that should they deny the application she would be forced to construct a makeshift cover out of tarps and lattice that would be far less attractive than the wood walls being requested. The board reviewed the property cards and photos provided. Ms. Burns brought an additional photo and presented it to the board. The photo showed a clearer image of the structure in question. Debra Heathe asked Ms. Burns if the post were only on sono tubes and whether or not the roof structure could be moved. Ms. Burns wasn't sure but referenced the picture she had presented to the board. Michael O'Brien asked the chairman why a variance would be required for an already permitted structure. Chairman Chenevert explained that because the roof is already non-conforming adding onto it would only serve to make it more non-conforming and that it does not meet the spirit of the ordinance. Ms. Burns stated that she would just leave now and stop wasting her time as she believed Chairman Chenevert had already made up his mind.

Chairman Robert Chenevert led a review of the 5 Criteria

1. Chairman Chenevert asked if granting the variance WOULD or WOULD NOT be contrary to the public interest. Chairman Chenevert stated that the minimum lot size and side and rear yards has already been overlooked with many different structures that have been erected on the small non-conforming lot. Robert Chenevert stated that the existing roof provides adequate coverage for equipment. Michael O'Brien stated that he didn't agree because he believed the requested walls would improve the aesthetics.
2. Chairman Chenevert asked if the spirit of the ordinance WOULD or WOULD NOT be observed. Chairman Chenevert stated that allowing an addition of

permanent walls on the existing structure would only further its non-conformity. Robert Chenevert also stated that the end of the property where the structure is located isn't large enough to meet the setback requirements for any structure.

3. Chairman Chenevert asked if granting the variance WOULD or WOULD NOT do substantial justice. Michael O'Brien stated that because this structure is already permitted adding walls to the already existing supports for the roof would be acceptable. O'Brien also stated that if it were not already permitted than granting the variance wouldn't make sense but given that it is permitted it is a reasonable request.
4. Chairman Chenevert asked if the values of the surrounding properties WOULD or WOULD NOT be diminished. Michael O'Brien stated that he didn't believe walls would diminish surrounding property values but tarps and whatever else may be used to close in the space would certainly have a negative effect on surrounding property values.
5. Unnecessary Hardships:
 1. Chairman Chenevert asked if there IS or IS NOT a fair & substantial relationship between the general public purpose of the ordinance provision and the specific application of the provision to the property. Chairman Chenevert stated that he saw no uniqueness to the property but O'Brien disagreed. O'Brien believed the size of the lot should be considered unique.
 2. Chairman Chenevert asked if the proposed use IS or IS NOT a reasonable one. Michael O'Brien stated that he believed that it was reasonable. Debra Heathe agreed with Michael O'Brien.

Chairman Robert Chenevert asked if anyone had any questions or concerns. There were none. Chairman Chenevert closed the public hearing at 7:05 pm.

The board discussed the application further before making a decision. Debra Heathe stated that she would have liked to see the property in person so that she could better understand the issue with setbacks. Chairman Chenevert stated that only two, substantial justice and property values, out of the five criteria have been met and that he didn't believe the application for variance should be approved. The Chairman motioned to deny the variance due to the criteria not being met. There was no 2nd to the motion. Michael O'Brien motioned to accept the variance as he believed that all five criteria had been meet, 2nd by Debra Heathe. Michael O'Brien and Debra Heathe voted to approve the application. Robert Chenevert opposed. The application for variance was denied.

Chairman Chenevert unseated alternate Debra Heath.

Next Regular Meeting Date: October 9, 2019

Adjourn:

Michael O'Brien motioned to adjourn the meeting at 7:12 pm, Debra Heathe 2nd, all voted in favor.

Approved Date: _____
