



TOWN OF LITCHFIELD

LITCHFIELD ZONING BOARD OF ADJUSTMENT

Litchfield, New Hampshire February 10, 2021

DRAFT

Regular meetings are held at the Town Hall at 7:00 pm on the 2nd Wednesday of each month.

ZBA Members in Attendance (indented if absent):

Richard Riley, Chairman

Albert Guilbeault

John Devereaux

Thomas Cooney (alternate)

Eric Cushing (alternate)

Greg Lepine (alternate)

Mark Falardeau (alternate)

Kyle D'Urso (alternate)

Laura Gandia, Vice Chairman (telephone)

I. CALL TO ORDER AND ROLL CALL

Richard Riley called the meeting to order at 7:01 pm. Richard Riley indicated there are four members present and took a roll call attendance.

II. CHAIRPERSON OPENING REMARKS

Richard Riley reviewed the schedule for hearings.

Case Number: 2021-02

Name of Applicant: Allen Lajoie

Address: 2 Buttonbush Lane, Litchfield, NH 03052

Owner of Property: Allen Lajoie

Location of Property: 2 Buttonbush Lane, Litchfield, NH 03052, Map 14, Lot 77

Appeal Requested

The Applicant seeks a variance from LZO Section 310.00 to allow construction of a detached garage that will encroach 19.9 feet into the side setback requirement of 20 feet, and 0.9 feet into the front setback requirement of 50 feet.

Richard Riley indicated the applicant joined the meeting via telephone.

Richard Riley indicated that there is a four member Board this evening, which constitutes a quorum, but is not a full Board. He asked if the applicant would like to proceed with a four member Board.

Mr. Lajoie commented you cannot guarantee in March there would be a full Board. He asked if he has a process to appeal with a four member Board.

Richard Riley indicated if you agree to go forward with a four member Board you would not have the option to appeal on that basis.

Mr. Lajoie agreed to continue with a four member Board.

III. PUBLIC HEARING AND DELIBERATION

Notices of the Public Hearings were posted and published in the Union Leader. Notice of the meeting and agenda were posted at the town hall and public library.

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Mr. Lajoie reviewed the criteria for requesting a variance.

- 1) The variance will not be contrary to the public interest because it will not alter the character of the neighborhood or threaten health, safety or general welfare of public. There is no impact that will create anything hazardous. It is a straightforward request and the garage will not going to be an eyesore.
- 2) The spirit of the ordinance is observed because it will not change the essential character of the neighborhood, nor pose a threat to public safety and welfare.
- 3) Substantial justice is done because the house was not centered on the lot by the builder. The septic is located on the side of the house where a variance would not be needed, but this will add significant cost to the project if it needs to be moved. When we bought the house it was the model house and they put the leach field and septic on the left side of the house and it would be a huge expense to move the septic.
- 4) Values of surrounding properties are not diminished because the garage will increase the value of the property and is consistent with surrounding properties. This was new construction and out of the seven homes on the cul de sac, three were built with garages. This will add value to not only our property, but the property of the homes on the street.
- 5) Literal enforcements of the provisions of the ordinance would result in an unnecessary hardship because placement of the structure on the other side of the house will result in moving the septic and installing (paving) a new driveway. The proposal is a reasonable request. There is benefit in putting the garage on the side facing the neighbors home and there are approximately 30 yards of woods, which will act as a buffer.

Al Guilbeault asked why add a detached garage instead of attaching it to the home and getting it off the lot line.

Mr. Lajoie indicated if the garage is attached there will still be a need for a variance and will add at least \$20,000 to the cost due to the need for a deeper foundation and a fire wall between the house and the garage.

Al Guilbeault asked for the distance between the house and the garage.

Mr. Lajoie commented it would be placed at a bit of an angle. He noted the entrance from the front of the house is 6 or 7 feet and then widens as you get closer to the garage.

Richard Riley asked if this is a two bay garage.

Mr. Lajoie indicated it is a two bay garage and we actually reduced the size by 2 feet to get within the property line.

Richard Riley asked if there were any letters from abutters.

Mr. Lajoie indicated the neighbor has not approached him or sent a letter.

Al Guilbeault asked if the shed reflected on the site plan is part of the project.

Richard Riley indicated it is not, but the code officer noted the shed is in violation as it is over the lot line; however, that is not a matter to address at this meeting. He clarified that the applicant is not seeking relief for the shed violation at this time.

Mr. Lajoie indicated that Mr. Riley was correct. He noted that he did not know the shed was in violation until they completed the survey for the garage.

Al Guilbeault asked if the 90 foot buffer (trees) stretch along the length of that side of the lot.

Mr. Lajoie indicated the buffer is along the right most part of the garage.

Al Guilbeault asked if the woods get thinner the further back you travel.

Mr. Lajoie indicated that the woods do not thin out, but there is more footage to the lot line as you travel back.

Richard Riley commented that the garage would be encroaching just one foot into the frontage. He asked if that is because if you went further back with the garage you would go over the lot line on the side?

Mr. Lajoie indicated that was recommended to get both variances.

Hearing no further discussion, Richard Riley asked for a motion to open public input.

John Devereaux made a motion to open public input. Al Guilbeault seconded. The motion carried 4-0-0.

Paul and Adina Gingris, 4 Buttonbush Lane called in on the telephone. Mrs. Gingris commented that they just received the letter advising of the request for the variance late this afternoon. She indicated that they are trying to understand more about the encroachment and proceedings.

Richard Riley explained the town ordinances set forth the front, side and rear setbacks. The front setback is 50 feet of required footage from the lot line. The side setback is 20 feet of required footage from the side lot line. He indicated the applicant is seeking the authorization to construct a two car garage, detached and the placement will be less than 1 foot from the side lot line, for which 0.1 foot is all that remains of the setback. He noted the applicant additionally asked for a front setback variance for 1 foot into the 50 foot required setback and the buffer referred to would be on your property.

Mrs. Gingris indicated that they do not have a drawing of the proposed garage.

Richard Riley and the Board assisted the Gingris' in viewing a drawing.

Mrs. Gingris commented that she and her husband have reservations about the proposed garage. She was concerned about the resale value of their home.

Richard Riley commented that the Board does not that type of expertise. He indicated that he does not recall an encroachment this close to a lot line during his years on the Board.

Al Guilbeault asked if any trees will be taken down.

Mr. Lajoie indicated that all the trees are on the neighbor's property and he would not be taking trees down.

Mrs. Gingris indicated that she received the email of the application of the proposal and she was able to view the plot plan.

Richard Riley explained the applicant is proposing a detached garage approximately 6 feet from his home and the back corner appears that it is touching the lot line, but is actually 1.1 feet from the lot line. He indicated the reason the applicant cannot put the garage on the other side of the house is because he would have to move his septic and driveway.

Mrs. Gingris commented that she would like to be sure it is not decreasing the value of the homes on the street.

Richard Riley indicated the garage does not go over the property line, but it cuts 19 feet into the 20 foot setback requirement on his property. With reference to the value of the homes, he commented this Board is not in the position to testify to the impact of value. He noted that would be up to a real estate expert.

Mr. Lajoie commented that he honestly believes this will not impact anyone's property value in the neighborhood because we have so much property here.

Mrs. Gingris commented that she and her husband have no further questions. She added that there are other properties on the street that do not have detached garages. She feels there is a difference between a detached garage and an attached garage.

Mr. Lajoie commented there are homes that have attached garages, but even if the garage were attached a variance would still be needed.

Richard Riley asked if this is a single story garage.

Mr. Lajoie indicated it is a single story structure with no overhead storage.

Hearing no further public input, Richard Riley asked for motion to close public input.

Al Guilbeault made a motion to close public input. John Devereaux seconded. The motion carried 4-0-0.

Richard Riley indicated the Board would deliberate through the criteria.

1) The variance will not be contrary to the public interest:

Laura Gandia disagreed that the variance would be contrary because it will alter the character of the neighborhood as it is a significant encroachment. She indicated there are safety concerns if the neighbor wished to construct an addition to their home.

The Board does not agree that the request meets the criteria.

2) The spirit of the ordinance is observed:

Richard Riley indicated the Board does not agree that the spirit of the ordinance is observed because the proposal does not offer any separation from the lot line. He indicated that the setbacks are there to allow separation of property.

Richard Riley commented the Board is not sure the applicant demonstrated that nothing could have been done differently to reduce the impact.

3) Substantial justice is done because:

Richard Riley commented the applicant has demonstrated the location of the building resulting from the impact to his property.

John Devereaux commented that would be a hardship, but not substantial justice.

Laura Gandia indicated in this case not seeking separation between the lots far outweighs any gains to the applicant to receive the variance.

Richard Riley commented the amount of the encroachment is the issue.

Laura Gandia explained although the location of the home is not the fault of the homeowner, the separation is crucial.

4) Values of surrounding properties are not diminished because:

Richard Riley commented that he is hearing the garage may not decrease the owner's property value, but it does run the risk of impacting the abutter's property value.

Laura Gandia believes granting the variance would devalue the abutter's property because they will have an issue if they want to put a structure there.

The Board agreed that the criteria has not been met.

5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because:

Richard Riley commented that he feels there is a hardship.

Laura Gandia commented that she feels they failed to prove the criteria because you have to consider the uniqueness in the position of the house. She asked is it fair to apply this ordinance on the property? She indicated that there is a fair and substantial relationship applying the ordinance to the property.

The Board agreed that the criteria has not been met.

Laura Gandia made a motion to deny the variance from LZO Section 310.00 to allow construction of a detached garage that will encroach 19.9 feet into the side setback requirement of 20 feet, and 0.9 feet into the front setback requirement of 50 feet. John Devereaux seconded. The motion carried 4-0-0.

Richard Riley indicated that the request for variance is denied. He noted that the applicant can challenge the decision. He commented he will send the applicant the information on the challenge to file reason why the applicant believes the Board erred in the decision. He indicated if significant changes in the plan are made, the applicant can return with the new plan if a variance is needed.

Mrs. Lajoie commented that she and her husband disagree with the decision and do not believe the proposed garage will devalue properties. She indicated that they will not challenge the decision of the Board, but instead will put their property up for sale because of the decision.

Richard Riley indicated he will write up the decision with detail and send it to the applicant. He noted the applicants have 30 days to appeal the decision.

Mrs. Lajoie commented it is not worth the time. She indicated that she and her husband appreciate the time and effort the Board put into it, but we will just move on.

IV. COMMUNICATIONS AND OTHER BUSINESS

There were no communications or other business.

V. ADJOURNMENT

John Devereaux made a motion to adjourn the meeting and Laura Gandia seconded the motion. The motion passed 4-0-0.

The meeting was adjourned at 8:40 p.m.

Respectfully submitted,
Michele E. Flynn