



## TOWN OF LITCHFIELD

### LITCHFIELD ZONING BOARD OF ADJUSTMENT

Litchfield, New Hampshire March 10, 2021

#### DRAFT

Regular meetings are held at the Town Hall at 7:00 pm on the 2<sup>nd</sup> 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 7:00 pm. Richard Riley indicated there were three members present and took a roll call attendance.

#### **II. CHAIRPERSON OPENING REMARKS**

Richard Riley reviewed the schedule for hearings.

#### **Case Number: 2021-03**

**Name of Applicant:** Theroux Properties, LLC

**Address:** 12 Colby Road, Litchfield, NH 03052

**Owner of Property:** Theroux Properties, LLC

**Location of Property:** 522 Charles Bancroft Highway, Litchfield, NH 03052, Map 22, Lot 11

#### **Appeal Requested**

The Applicant seeks a special exception from LZO Section 1208 to impact 27,200 sq. ft. of no-disturb buffer to wetlands in order to gain access to the back of the property and to accommodate the proposed storm water management areas for the intended development project.

#### **Case Number: 2021-04**

**Name of Applicant:** John Kennedy

**Address:** 50 Pilgrim Drive, Litchfield, NH 03052

**Owner of Property:** John Kennedy

**Location of Property:** 50 Pilgrim Drive, Litchfield, NH 03052, Map 8, Lot 28

#### **Appeal Requested**

The Applicant seeks a variance from LZO Section 310.00 to allow construction of a one-story garage that will encroach 3 feet into the side setback requirement of 20 feet.

Richard Riley indicated that there is a three member Board this evening, which constitutes a quorum, but is not a full Board. He explained all three members would need to vote in favor for approval of the request according to the law. He asked if the applicants would like to proceed with a three member Board or to postpone the case until a full quorum is available.

Morgan Hollis, Attorney, representing the applicant and owner in Case #2021-03. He indicated that he spoke offline with his client and the engineer and would like to postpone the case until the next meeting where there may be a four member board.

***John Devereaux made a motion to postpone Case #2021-03 until April 14, 2021. Al Guilbeault seconded. The motion carried 3-0-0.***

Richard Riley asked Mr. Kennedy if he would like to proceed with the three member board or postpone his case.

Mr. Kennedy indicated he would like to proceed with the three-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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#### **Case Number: 2021-04**

**Name of Applicant: John Kennedy**

**Address:** 50 Pilgrim Drive, Litchfield, NH 03052

**Owner of Property:** John Kennedy

**Location of Property:** 50 Pilgrim Drive, Litchfield, NH 03052, Map 8, Lot 28

#### **Appeal Requested**

The Applicant seeks a variance from LZO Section 310.00 to allow construction of a one-story garage that will encroach 3 feet into the side setback requirement of 20 feet.

Addressed the criteria in the application for variance:

- 1) The variance will not be contrary to the public interest because there is only one abutter and the abutter is aware and has no objection. Have spoken to the other abutters as well. The garage will be attached to the existing dwelling. There is land between my property and the abutter's property that is wooded and would not be affected.
- 2) The spirit of the ordinance is observed because the area of the proposed garage is currently being used as a parking space for a vehicle. The landscape and wooded buffer area to the lot will not be altered. Will make the home look better and raise the value of the property in the neighborhood.
- 3) Substantial justice will be done because the proposed garage will be constructed in a manner that is attached and will blend with the existing dwelling. Handicap and safety are an issue with the applicant who needs to park the vehicle parked indoors during the winter months. Sent letter regarding a fall the applicant had with injury -
- 4) The values of surrounding properties are not diminished because the proposed garage abuts the wooded buffer and adds value to the property that passes onto the abutters.
- 5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship

because construction of the garage does not go against the general purpose of the ordinance and the proposed use is reasonable. The location of the dwelling on the lot along with the septic location does not allow for an alternate location. The handicapped issue also makes it necessary.

Richard Riley indicated that the applicant received a letter of denial by the building department indicating that the site plan for a 16' x 30' garage was reviewed, but is denied because the required side setback is 20 feet and the plans show a setback for the foundation of 17 feet. The letter mentions that the 3-foot encroachment does not take a roof overhang into consideration.

Richard Riley indicated the applicant sent a letter to the Zoning Board reflecting that the applicant has lived in Litchfield for 34 years and always kept meticulous care of his property. The letter mentions that the applicant became aware of the setback footage after a survey of the land. The applicant indicates that the purpose of the garage is to be able to park his truck inside due to a disability that affects his mobility, which is the result of a fall on the ice. The letter states the applicant contacted abutters and received no objections. The garage will blend in with the property and will not be a detriment to the neighbors.

John Devereaux indicated it appears there is an existing garage in the pictures provided.

Mr. Kennedy indicated that there is a two car garage that exists. He explained that within the first year of purchasing the home, they added a 2 car garage and ensured it blended in with the home; however, he has not had enough room to park his truck inside the garage.

Richard Riley was concerned about the roof overhang mentioned in the building department denial letter. He explained the inspector called out the fact there is no detail provided in the plans regarding the roof overhang, which would have to be factored into the setback requirement if an overhang is going to exist. Consequently, a one foot overhang would require the plans be modified and a new application for a variance to be filed.

Mr. Kennedy indicated he had not discussion with the building inspector regarding the overhang since there will not be an overhang on the side of the garage. He noted the only overhang would be on the front or rear of the structure.

Richard Riley asked if this is a one-car garage and commented it appears the back corner encroaches 2' into the side setback where the front corner encroaches 3' into the side setback, creating a slight angle.

Mr. Kennedy indicated it is a one-car garage and that Mr. Riley is correct regarding the front and rear footage.

Hearing no further discussion, Richard Riley opened public input.

Roy Arria, 52 Pilgrim Drive, commented he is a direct abutter. He indicated he moved to Litchfield 20 years ago and that Mr. Kennedy has always kept his property in impeccable condition. He noted that they are great neighbors and that he fully supports the construction of the garage.

Christine Hartwell, 48 Pilgrim Drive, commented she is a direct abutter and is in full support of Mr. Kennedy's project. She indicated she has been in Litchfield for 25 years and Mr. Kennedy's property is meticulous. She noted there is at least 20' of woods between our property and the proposed garage. She commented the garage would not be seen and would be an asset to the neighborhood.

Al Guilbeault asked if there would be a door from the new addition to the existing garage.

Mr. Kennedy indicated there would be access from the addition to the existing garage. He mentioned that his wife parks her vehicle in the existing 2-car garage and he keeps an electric golf cart to help with

his mobility and other land power equipment in the other stall.

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

***Richard Riley made a motion to close public input. John Devereaux seconded. The motion carried 3-0-0.***

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Richard Riley indicated the Board would deliberate through the criteria.

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

Richard Riley commented the applicant has spoken with abutters and received unanimous support for the proposed addition. Board members agreed.

2) The spirit of the ordinance is observed:

Richard Riley indicated that there is no detracting from other properties and the landscape and wooded buffer will not be altered.

John Devereaux commented that the natural wooded buffer would not be affected and meets the spirit of the ordinance. Board members agreed.

3) Substantial justice is done because:

Richard Riley commented that the proposed construction will provide additional safety and comfort to the applicant due to his mobility and the structure will blend with the existing property. He indicated the harm to the public from the proposed structure is not greater than the benefit to the applicant. Zoning Board members agreed.

4) Values of surrounding properties are not diminished because:

Richard Riley commented these types of additions do generally increase the value of a home and should not have a negative effect to the surrounding properties. Zoning Board members agreed.

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

Richard Riley commented that the location of the septic system on the property does not allow for an alternate location for the proposed garage and the location where the proposed structure will be constructed is already used as a parking spot. He indicated a 3-foot encroachment does not create any hazard for abutters. Zoning Board members agreed.

***John Devereaux made a motion to grant a variance from LZO Section 310.00 to allow construction of a one stall garage on the property located at Map 8, Lot 28 that will encroach 3 feet into the side setback requirement of 20 ft. Al Guilbeault seconded. The motion carried 3-0-0.***

The variance has been approved.

Richard Riley indicated he will write up the decision with detail and send it to the applicant. He noted the applicants have 30 days before construction to allow for challenge to the decision.

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#### **IV. COMMUNICATIONS AND OTHER BUSINESS**

There were no communications or other business.

#### **V. ADJOURNMENT**

***John Devereaux made a motion to adjourn the meeting and Al Guilbeault seconded the motion. The***

***motion passed 3-0-0.***

The meeting was adjourned at 7:45 p.m.

Respectfully submitted,  
Michele E. Flynn