



TOWN OF LITCHFIELD

LITCHFIELD ZONING BOARD OF ADJUSTMENT

Litchfield, New Hampshire May 12, 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):

Laura Gandia, Vice Chairman

Albert Guilbeault

John Devereaux

Thomas Cooney (alternate)

Eric Cushing (alternate)

Greg Lepine (alternate)

Mark Falardeau (alternate)

Kyle D'Urso (alternate)

I. CALL TO ORDER AND ROLL CALL

Al Guilbeault called the meeting to order at 7:00 pm.

Al Guilbeault appointed Thomas Cooney to the Board, resulting in a three member Board.

II. CHAIRPERSON OPENING REMARKS

Al Guilbeault 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.

Al Guilbeault indicated that Attorney Hollis sent a letter to the Litchfield Zoning Board that the request for a variance for Case 2021-03, to be heard on May 12, 2021, is withdrawn.

John Devereaux made a motion to accept the withdrawal of the request for a special exception from LZO Section 1208 for Case 2021-03 to a future date. Al Guilbeault seconded. The motion carried 3-0-0.

Case Number: 2021-06

Name of Applicant: James Frost

Address: 378 Charles Bancroft Highway, Litchfield, NH 03052

Owner of Property: James Frost

Location of Property: 457 Charles Bancroft Highway, Litchfield, NH 03052, Map 18, Lot 57

Appeal Requested

The Applicant seeks a variance from LZO Section 310 to allow construction of a 14 ft. x 22 ft. lean to style shed to attach to an existing barn, which would encroach 9.5 ft. into the front setback where a 50 ft. setback is required.

The applicant was not yet present to present the case to the Board.

Al Guilbeault made a motion to table Case #2021-06 until later in the meeting. John Devereaux seconded. The motion carried 3-0-0.

Case Number: 2021-07

Name of Applicant: Daryl George

Address: 2 Underwood Dr, Litchfield, NH 03052

Owner of Property: Daryl George

Location of Property: 2 Underwood Dr, Litchfield, NH 03052, Map 9, Lot 54

Appeal Requested

The Applicant seeks a variance from LZO Section 310, which would encroach 6 ft. into the side setback where a 20 ft. setback is required.

The applicant was not yet present to present the case to the Board.

Al Guilbeault made a motion to table Case #2021-07 until later in the meeting. John Devereaux seconded. The motion carried 3-0-0.

Case Number: 2021-08

Name of Applicant: Roger Soulard

Address: 1 Grove Ct, Litchfield, NH 03052

Owner of Property: Roger Soulard

Location of Property: 457 Charles Bancroft Highway, Litchfield, NH 03052, Map 18, Lot 73

Appeal Requested

The Applicant seeks a variance from LZO Section 310 to allow the installation of an in ground swimming pool measuring 35 ft. x 15 ft., which would encroach approximately 15 ft. into the rear setback where a 20 ft. setback is required.

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.

Case Number: 2021-08

Name of Applicant: Roger Soulard

Address: 1 Grove Ct, Litchfield, NH 03052

Owner of Property: Roger Soulard

Location of Property: 457 Charles Bancroft Highway, Litchfield, NH 03052, Map 18, Lot 73

Appeal Requested

The Applicant seeks a variance from LZO Section 310 to allow the installation of an in ground swimming pool measuring 35 ft. x 15 ft. which would encroach approximately 15 ft. into the rear setback where a 20 ft. setback is required.

AI Guilbeault asked if the applicant would like to proceed with the 3-member board or postpone the case.

Mr. Soulard indicated he would like to proceed with a 3-member board.

Mr. Soulard explained the in ground pool he would like to install will be located in the back of the property. He indicated that he was initially under the impression that he was working with a 15 ft. setback and was informed by the building inspector that the required setback is 20 ft. He noted there is a slope and septic system on the right side of the property, which leaves no other location for the pool.

Mr. Soulard addressed the criteria in the application for variance:

- 1) The variance will not be contrary to the public interest because it will not alter the character of the neighborhood or threaten the health, safety or general welfare. The pool will not be an eyesore and privacy will be provided.
- 2) The spirit of the ordinance is observed it will not change the character of the neighborhood and there is currently a privacy fence and the pool will not encroach on neighbors or any utilities.
- 3) Substantial justice will be done because the wide lot and front setback make the 20' setback difficult to obtain. The other side of the lot has a septic system and grade/slope issues, as well as less sun.
- 4) The values of surrounding properties are not diminished because it abuts a privacy fence with a landscape buffer and would fit in with most of the neighborhood.
- 5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because it would be a costly hardship to try to install a pool below grade near the septic and would become an open sight to the whole neighborhood.

Public Input

AI Guilbeault opened public input.

John Devereaux asked the applicant to describe the privacy fence behind where the pool would go that applies to your neighbor.

Mr. Soulard indicated the fence already existed when the home was purchased and spans from the side of the property that faces Garden Drive all the way to the end of the property. He indicated as far as he knows, both neighbors of both homes appreciate the privacy fence. He plans to rebuild the fence as it is weathered and plans to replace with in kind fencing.

AI Guilbeault commented that the pool drawn on the map is 35' x 15'. He asked if that is the actual size of the pool and if there is a patio encompassing the pool.

Mr. Soulard confirmed the pool and patio dimensions.

AI Guilbeault commented that it seems as if the encroachment is more than 15 ft.

Mr. Soulard indicated that the 15 ft. would be from the water's edge.

John Devereaux asked for a description of the rectangular shape of the pool, as it appears almost halfway into the setback.

Mr. Soulard indicated that it would be approximately one-third of the distance into the setback. He noted that he has yet to have the area surveyed.

John Devereaux commented that with the absence of a survey map it is difficult for the Board to approve a plan that is not a plan.

Al Guilbeault asked if the pool can be moved closer to the house or if the dimensions of the pool can be smaller to maintain the setback.

Mr. Soulard indicated he was not sure if there were any regulations on the setback from the home.

John Devereaux commented that he did not think there was any ruling on that, but that it is typically a preference of the homeowner. He asked if there is any option to decrease the encroachment of the setback.

Mr. Soulard mentioned that he recalls reading about a 10 ft. requirement of a pool regarding the proximity to the home.

John Devereaux asked if Mr. Soulard had spoken with abutters, as there is no testimony in writing.

Mr. Soulard indicated he spoke to the abutters at 49 Garden Drive and 3 Grove Court and neither abutter had any concerns with the installation or location of the pool.

John Devereaux mentioned that there is a national recommendation regarding the proximity of a pool to a home, which is not more than 10 ft. due to electricity and flooding.

Al Guilbeault asked about the deck in the site drawings.

Mr. Soulard indicated the existing deck has been shortened and covered and would be 13 ft. from the pool for safety and security. He commented he did not want the deck closer out of concern for his 2-year-old daughter's safety.

Al Guilbeault referenced a propane tank and asked if it would be moved.

Mr. Soulard indicated the tank would be moved.

There was no further public input.

Al Guilbeault made a motion to close public input. John Devereaux seconded. The motion carried 3-0-0.

Board Deliberation

John Devereaux commented that the Board cannot support an open-ended request and would defer the case for a plan to show the location of the pool to the side setback as well as the rear setback.

Al Guilbeault indicated the request states the side and rear setbacks.

John Devereaux indicated he is not comfortable with an open-ended approval. He recommended the applicant submit a plan that shows the specific location of the pool and the specific impact to the setback. He commented that without a survey plan there is nothing specific to vote on.

John Devereaux made a motion to continue the hearing for Case 2021-08 until June 9, 2021, with the stipulation of requesting a plan that shows the specific impact of the pool to the setback. Tom Cooney seconded. The motion carried 3-0-0.

Mr. Soulard asked about the procedure moving forward.

John Devereaux explained that the applicant needs to get a surveyed map of the site that shows the impact of the placement of the pool to the setback. He indicated the Board is asking for more specific specifications.

Mr. Soulard commented that his initial decision was not to spend money on a survey unless the project was approved.

John Devereaux commented a surveyed map gives you the opportunity to see if the impact of the location of the pool can be minimized, or to show an attempt was made to do so, which would help the case.

Case 2021-08 will be continued to June 9, 2021.

Case Number: 2021-06

Name of Applicant: James Frost

Address: 378 Charles Bancroft Highway, Litchfield, NH 03052

Owner of Property: James Frost

Location of Property: 378 Charles Bancroft Highway, Litchfield, NH 03052, Map 18, Lot 57

Appeal Requested

The Applicant seeks a variance from LZO Section 310 to allow construction of a 14 ft x 22 ft. lean to style shed to attach to an existing barn, which would encroach 9.5 ft. into the front setback where a 50 ft. setback is required.

Mr. Frost addressed the criteria in the application for variance:

- 1) The variance will not be contrary to the public interest because the structure does not intrude any further than the existing garage.
- 2) The spirit of the ordinance is observed because people do not want neighboring buildings up against their lot.
- 3) Substantial justice will be done additional structure does not appear to encroach any more than existing structure.
- 4) The values of surrounding properties are not diminished because the structure will not be visible due to shrubbery and brush and because it will be pleasing
- 5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because adequate storage for hay is necessary and relocating the proposed structure would not be logical to the loading and unloading of trucks.

John Devereaux commented that the application states the front setback, but the property is a corner lot and actually has two front setbacks, one on Charles Bancroft Highway and one on Midway Avenue.

Mr. Frost confirmed the statement.

John Devereaux indicated the lot is unique because it has two front setbacks.

Al Guilbeault indicated the existing bard actually encroaches on the setback on the Midway side.

Mr. Frost commented the notes indicate the barn has existed for some time and was most likely built prior to Midway Avenue being built. He noted the barn is actually a three-car garage.

John Devereaux asked if the applicant spoke to any abutters.

Mr. Frost indicated all abutters were notified.

John Devereaux asked if there was any feedback from abutters.

Mr. Frost indicated that there was none.

John Devereaux indicated the applicant submitted a letter to the Board and read the letter into the record, as transcribed verbatim below:

"This letter is being included with my application for variance to build asked. My original application was denied due to setback requirements found in Section 310 of the local code. I believe variance should be granted because my proposal will not encroach more than the existing garage, which was built, in my belief, before Midway Ave was built. Actually, my proposed structure will have more setback. I would like to build in this spot to maximize space on my lot and minimize construction cost, since I will only need to build two walls instead of four. Moving the building would also not be very convenient for its intended purpose of storing hay and animal feed to be utilized in adjacent pens, as shown. The proposed building will be built for looks as one main attraction and selling point of property (if I ever decide to sell). A post and beam style will be used with proper notch joints and heavy duty fasteners. Board and Batten siding will flank two sides and corrugated metal roofing attached to the top. The structure should add value to my property and therefore others as well. James Frost, owner.

Public Input

Al Guilbeault opened public input. Hearing no public input, he asked for motion to close public input.

John Devereaux made a motion to close public input. Al Guilbeault seconded. The motion carried 3-0-0.

Board Deliberation

The Board addressed the criteria in the application for variance:

Al Guilbeault commented that the barn is encroaching on the side setback.

John Devereaux indicated that the barn encroaches more than the proposed addition.

Al Guilbeault commented the barn was not encroaching on the setback prior to the building of Midway Avenue.

John Devereaux indicated that is part of the uniqueness of the property.

Al Guilbeault commented the proposed structure would actually have less impact on the setback.

John Devereaux commented that the variance is required. He indicated due to the unique nature of the property and the fact that the proposed structure is not against the spirit of the ordinance, he believes the applicant's responses to the criteria are valid.

John Devereaux motion to approve the variance for case 2021-06 from LZO Section 310 to allow construction of a 14 ft. x 22 ft. lean to style shed to attach to an existing barn, which would encroach 9.5 ft. into the front setback where a 50 ft. setback is required. Tom Cooney seconded. The motion carried 3-0-0.

Al Guilbeault indicated the variance for Case 2021-06. He noted that construction cannot start for 30 days and the

applicant will be notified of the Board's decision.

Case Number: 2021-07

Name of Applicant: Daryl George

Address: 2 Underwood Dr, Litchfield, NH 03052

Owner of Property: Daryl George

Location of Property: 2 Underwood Dr, Litchfield, NH 03052, Map 9, Lot 54

Appeal Requested

The Applicant seeks a variance from LZO Section 310, which would encroach 6 ft. into the side setback where a 20 ft. setback is required.

The applicant was not present.

Al Guilbeault made a motion to continue Case #2021-07 until the June 9, 2021 meeting. John Devereaux seconded. The motion carried 3-0-0.

IV. COMMUNICATIONS AND OTHER BUSINESS

There was no other business.

V. ADJOURNMENT

John made a motion to adjourn the meeting and Al seconded the motion. The motion passed by roll call vote: John Devereaux, yes; Al Guilbeault, yes; Tom Clooney, yes.

The meeting was adjourned at 7:58 p.m.

Respectfully submitted,
Michele E. Flynn