

**Six LONDONDERRY ZONING BOARD OF ADJUSTMENT
268B MAMMOTH ROAD
LONDONDERRY, NH 03053**

MINUTES FROM 05/19/21 MEETING

The meeting was called to order at 7:00 p.m. Members introduced themselves. The following members were present: Brendan O'Brien, member; Suzanne Brunelle, member; Mitch Feig, member; Irene Macarelli and David Armstrong, alternate member. Also, participating was Laura Gandia, Associate Planner; Nick Codner, Chief Building Inspector; and Beth Morrison, Recording Secretary. B. O'Brien appointed both I. Macarelli and D. Armstrong as voting members this evening. Vice Chair Benard arrived to the meeting at 7:40 p.m.

I. APPROVAL OF MINUTES

M. Feig made a motion to accept the April 21, 2021, minutes as presented.

The motion was seconded by S. Brunelle.

The motion was granted by, 5-0-0.

II. REPORT BY TOWN COUNCIL – D. Paul informed the Board that she had no report for them this evening.

III. REGIONAL IMPACT DETERMINATIONS: Associate Planner Gandia informed the Board that she had six projects for their consideration this evening.

1. CASE NO. 05/19/2021-1: Request for a variance from LZO 4.2.1.3.C.1 to encroach 25 feet into the 40 foot front setback for the construction of a shed, 15 King Arthur Drive, Map 9 Lot 66-12, Zoned AR-1, Edward & Rebecca Curran (Owners & Applicants)
2. CASE NO. 05/19/2021-2: Request for a variance from LZO 4.2.1.3.B.1 to allow construction of a single family dwelling on a lot with no frontage on a Class V or better road, One Ron's Way, Map 10 Lot 74, Zoned AR-1, Summit Construction & Design, Inc. (Owner & Applicant)
3. CASE NO. 05/19/2021-3: Request for a special exception pursuant to LZO 5.15.1 for a portable storage structure in the AR-I district, 28 Auburn Road, Map 16 Lot 58, Zoned AR-1, Virginia St. Cyr (Owner) and Dale J. Gagnon (Applicant)
4. CASE NO. 05/19/2021-4: Request for a special exception pursuant to LZO 5.15.1 for a portable storage structure in the AR-I district, 136 Pillsbury Road, Map 6 Lot 18-2, Zoned AR-1, Orchard Christian Fellowship Church (Owner & Applicant)

5. CASE NO. 05/19/2021-5: Request for a variance from LZO 4.2.1.3.C.2 to encroach seven feet into the 15 foot side setback for the construction of garage, 16 Teton Drive, Map 11 Lot 20-105, Zoned AR-1, Kenneth M. Saunders (Owner & Applicant)

6. CASE NO. 05/19/2021-6: Request for a variance from LZO 4.2.1.4.A to allow chickens on a 1.10 acre lot where two acres are required, Two Priscilla Lane, Map 2 Lot 27-25, Mark and Brenda Pucciarelli (Owners) and Olivia Pucciarelli (Applicant)

M. Feig made a motion that none of these projects are of regional impact.

The motion was seconded by S. Brunelle.

The motion was granted by, 5-0-0.

IV. PUBLIC HEARING OF CASES

A. CASE NO. 05/19/2021-1: Request for a variance from LZO 4.2.1.3.C.1 to encroach 25 feet into the 40 foot front setback for the construction of a shed, 15 King Arthur Drive, Map 9 Lot 66-12, Zoned AR-1, Edward & Rebecca Curran (Owners & Applicants)

M. Feig read the case into the record noting there are no previous zoning cases. Edward Curran, owner at 15 King Arthur Drive, addressed the Board. E. Curran presented the Board with some additional information this evening, Exhibit A, which is attached hereto. He informed the Board that he is asking for this variance to allow for access to the backside of the house for technicians, equipment and machinery necessary to service or maintain the pool, hot tub or irrigation. S. Brunelle asked how big the shed is. E. Curran replied that it is 16 feet wide. D. Armstrong asked how high the shed is. E. Curran replied that he did not know. E. Curran reviewed the packet that he gave the Board this evening, which is attached hereto as Exhibit 1. B. O'Brien asked about the stream. E. Curran replied that was correct.

He then reviewed the five criteria for the granting of the variance:

- (1) The granting of the variance is not contrary to the public interest: because it does not change the essential character of the neighborhood nor threaten the health, safety or welfare of the general community.
- (2) The spirit of the ordinance is observed: because the request is to reduce the frontage requirement for only 16 feet of the 150 feet of frontage allowing the other 134 feet to remain unobstructed and no overcrowding will result.
- (3) Substantial justice is done: because the loss to the applicant would outweigh any gain to the public.
- (4) Values of surrounding properties are not diminished: because the shed to be installed and the landscaping around it will be tasteful and aesthetically pleasing while maintaining the architectural character of the neighborhood.

(5) There is no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the property is unique due to the slope, the pool location and wetlands there is no other place to put the shed on the property. He said that the proposed use is a reasonable one.

B. O'Brien asked for questions from the Board. S. Brunelle asked the size of the shed. E. Curran replied that it is 16-feet by 22-feet. D. Armstrong asked how high the shed is. E. Curran replied that he did not know, but the walls are seven feet. E. Curran reviewed Exhibit A with the Board, reading from it at times. B. O'Brien asked if the stream ran across the back of his property. E. Curran replied that was correct.

B. O'Brien asked for public input. M. Feig read a letter of support into the record from Exhibit A.

B. O'Brien brought the discussion back to the Board. D. Armstrong told the Board that he drove through the neighborhood and no other properties have a shed in the front and thought that it might detract from other property values. He asked if the shed could be moved closer to the house. E. Curran replied that there is only one house on Otterson Road that has a shed in front of the house. He reviewed why he feels that he needs the shed in the proposed location, noting that the 25-feet is for larger trucks, for example to fill the well or pool. M. Feig asked what the shed would be used for. E. Curran gave an overview of what was currently housed in his garage, noting he wants to take that equipment out and be able to park a car in here. M. Feig asked what else was in his backyard. E. Curran reviewed the GIS map on the screen with the Board. M. Feig asked if there was room for a shed on the right hand side of the house. E. Curran replied that there are trees and a slope there. D. Armstrong asked if the door would be on the front of the shed. E. Curran replied that it would be on the back of the shed and will not be visible from the street. D. Armstrong asked the Board their opinion on the shed being in the front of the yard. S. Brunelle gave her opinion, that she believes a shed in the front of the house is unusual, but believes this is a very unique situation. M. Feig asked about the resident making their own hardship as they have placed other things in the back and now need a shed. B. O'Brien said that it is a difficult balance with every case.

The Board closed public input and began deliberation:

- (1) The variance would not be contrary to the public interest: because the shed will not alter the essential character of the neighborhood.
- (2) The spirit of the ordinance would be observed: because the shed will not affect the health, safety or welfare of the general public.
- (3) Substantial justice would be done: because the loss to the applicant outweighs any gain to the general public.
- (4) Values of the surrounding properties would not be diminished: because the essential character of the neighborhood would not be changed.
- (5) There is not a fair and substantial relationship that exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: because the

property is unique given the pool in the backyard, slope and wetlands there is no other place for him to place the shed. The proposed use is a reasonable one.

S. Brunelle made a motion in CASE NO. 05/19/2021-1 to grant the request for a variance from LZO 4.2.1.3.C.1 to encroach 25 feet into the 40 foot front setback for the construction of a shed, 15 King Arthur Drive, Map 9 Lot 66-12, Zoned AR-1, Edward & Rebecca Curran (Owners & Applicants) with the condition that the shed be no larger than 16-feet by 22-feet with a maximum of seven feet high walls.

I. Macarelli seconded the motion.

The motion was granted, 3-2-0. The applicant's request for a variance was GRANTED with conditions.

B. CASE NO. 05/19/2021-2: Request for a variance from LZO 4.2.1.3.B.1 to allow construction of a single family dwelling on a lot with no frontage on a Class V or better road, One Ron's Way, Map 10 Lot 74, Zoned AR-1, Summit Construction & Design, Inc. (Owner & Applicant)

Vice Chair Benard arrived at the meeting at 7:40 p.m. Vice Chair Benard appointed D. Armstrong as an alternate voting member for the remainder of cases this evening. B. O'Brien read the case into the record reading the previous zoning case into the record. Robert Balquist, an engineering technician from Meisner Brem Corporation, 202 Main Street, Suite G1, Salem, NH, addressed the Board. R. Balquist gave the Board an overview of the parcel, noting it is on the Derry town line on a dead end street named Cedar Street. He pointed out that the lot has no frontage on the Londonderry side. He mentioned that in 2017 the Zoning Board of Adjustment (ZBA) granted the request for a variance to construct a single family residence on a lot with no frontage with the stipulation that they record a driveway easement and the lot be serviced by municipal water and sewer services in Derry. He added that construction has begun, but the house is sitting there idling at the moment. He explained they are here this evening asking to allow completion of the house on a lot with no frontage with the condition that they have private well and septic. He noted that they have approval from New Hampshire Department of Environmental Services (NHDES). Vice Chair Benard asked if a variance expires after two years. L. Gandia replied that she was correct, noting that the applicant did present with a different variance, as they are asking for private well and septic.

He then reviewed the five criteria for the granting of the variance:

- (1) The granting of the variance is not contrary to the public interest: because the proposed use is an allowed use for the district, a single-family dwelling in the AR-1 district and in fact is common to the neighborhood.
- (2) The spirit of the ordinance is observed: because it the owner has obtained approval from NHDES for on-site private septic noting there is adequate area on the lot for private services without affecting abutters. He pointed out that everything on Londonderry's side has private well and septic and Derry has municipal water and sewer.

- (3) Substantial justice is done: because the owner has obtained and recorded easement plan and deed as required from the previous case, so relief from the conditions of the previous variance would allow the owner to utilize the property to its fullest.
- (4) Values of surrounding properties are not diminished: because completion of the dwelling under construction will increase the value of the neighborhood.
- (5) There is no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the property is unique as the parcel is an existing lot of record without the benefit of road frontage in Londonderry prior to the adoption of the ordinance. He said that the proposed use is a reasonable one.

Vice Chair Benard asked for questions from the Board. S. Brunelle commented that the warranty deed the applicant provided references a plan, however, referencing an easement on a plan does not actually create the easement. She added that a specific deed is required to provide access to the property. R. Balquist stated that they can make a special easement deed as a stipulation. S. Brunelle asked why the ZBA wanted them to hook up to town water and sewer. Ronald Morrissey, Summit Construction, explained that after evaluating the current water and sewer system on Cedar Street, it was found that the connection ends approximately 225 feet to the curb of the new property. He went on noting that in order to hook up to this connection, they would have to install a new sewer system, water main and replace approximately 225 feet of Cedar Street with standards that are similar to a modern highway. He commented that this does not seem feasible. S. Brunelle stated that she understands that is why he does not want to do this, but asked why the ZBA wanted him to connect to public water and sewer in 2017. R. Morrissey replied that he believes they thought that private well and septic would not fit the criteria of this lot at the time, but looking at this again, it does. S. Brunelle asked if they are able to place the private well and septic on this lot and meet all the criteria. R. Balquist replied that was correct. He noted that NHDES put a condition, due to the lot size, that the house cannot be any larger than three bedrooms. Vice Chair Benard mentioned that the letter from NHDES states that they will not be responsible for any contaminated wells or any problems with leach fields in the surrounding properties; therefore, in 2017 the ZBA requested the applicant to hook up to public water and sewer to protect the surrounding neighbors. She asked why today this would be different other than monetary issues. R. Balquist replied that the well release is recorded in the Registry of Deeds, so anytime someone were to do a title search, they would find it. He pointed out that there is no septic system anywhere within 100-feet of the proposed well location. He said that they put the leach field for this house as far away on the lot as they possibly could. He added that the protective well radius overlaps a lot line and this is the reason for the well release, as it is required by NHDES. He commented that all the properties on the Derry side are serviced by municipal water and sewer and all the properties on the Londonderry side are on private well and septic. Vice Chair Benard asked about street run-off. R. Balquist replied that the well would have a casing of about 40-feet that will seal it from contamination from any road salt. S. Brunelle asked the distance between the proposed well and septic. R. Balquist responded that the proposed leach field is about 150-feet away from the proposed well. Vice Chair said that the proposed well distance that is recommended by NHDES is 75-feet, which is the well radius, and that is not being met. R. Balquist replied that it is too close to the lot line, not any septic system. D. Armstrong asked if the septic on Wildlife Way is located far enough away from the well. R. Balquist replied that was correct. Vice Chair Benard what

extenuating circumstances were that prevented the applicant from completing this project. Ronald Morrissey replied that that they found out about a year ago, what the actual scope of putting in a sewer and water system to the house would be. He mentioned that he did not know they could have a private septic and well at the time he applied for a variance in 2017. Vice Chair Benard asked when the applicant found out this was an option. R. Morrissey responded that it was during COVID that he talked to the Derry engineer and found out the scope of the project for municipal water and sewer.

Vice Chair Benard asked for public input.

Charles Kaufman, 25 Cedar Street, Derry, NH, addressed the Board in favor of granting the variance. C. Kaufman said that he has no issues as he is the closest abutter and would really like the project to be finished.

Vice Chair Benard brought the discussion back to the Board. She said that this is a classic definition of a unique lot and reviewed that with the Board. D. Armstrong said that the applicant started construction and ran into issues related to cost when trying to connect to water and sewer in Derry.

The Board closed public input and began deliberation:

- (1) The variance would not be contrary to the public interest: because it would not alter the essential character of the neighborhood.
- (2) The spirit of the ordinance would be observed: because there is no threat to the safety, health or welfare of the general public as stated in the NHDES letter or approval.
- (3) Substantial justice would be done: because the loss to the applicant would outweigh any gain to the general public.
- (4) Values of the surrounding properties would not be diminished: because the completion of the project may increase the value of the surrounding property values.
- (5) There is not a fair and substantial relationship that exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: because the property is an existing lot of record created without the benefit of road frontage in Londonderry prior to the adoption of the ordinance. The proposed use is a reasonable one.

S. Brunelle made a motion in CASE NO. 05/19/2021-2 to grant the request for a variance from LZO 4.2.1.3.B.1 to allow construction of a single family dwelling on a lot with no frontage on a Class V or better road, One Ron's Way, Map 10 Lot 74, Zoned AR-1, Summit Construction & Design, Inc. (Owner & Applicant) with the following condition:

1. A recorded deed easement providing access to Cedar Street from Lot 29-24 to Lot 10-74 be recorded at the Rockingham County Registry of Deeds and a copy provided to the Building Department.

B. O'Brien seconded the motion.

The motion was GRANTED, 5-0-0. The applicant's request for a variance was GRANTED with conditions.

C. CASE NO. 05/19/2021-3: Request for a special exception pursuant to LZO 5.15.1 for a portable storage structure in the AR-I district, 28 Auburn Road, Map 16 Lot 58, Zoned AR-1, Virginia St. Cyr (Owner) and Dale J. Gagnon (Applicant)

B. O'Brien read the case into the record and noted the previous zoning. Dale Gagnon, applicant residing at 28 Auburn Road, addressed the Board. D. Armstrong asked how long the portable storage structure has been there. D. Gagnon replied that it was there when he started residing at the property one year ago. D. Armstrong asked how long the applicant plans to have the portable storage structure there. D. Gagnon replied maybe a year, but gave some background noting that he previously owned a condo and then moved, so he has furniture and appliances in the portable storage structure that he needs to sort out. D. Armstrong asked what will happen if it is still not cleaned out in a year. D. Gagnon answered that he recently had a heart attack and has not been able to really clean it out. He added that he would like some time to go through it as he had some poor health recently. Vice Chair Benard asked if he was leasing the property and how long. D. Gagnon replied that he is leasing the property right now with an option to buy. Vice Chair Benard asked if Virginia St. Cyr, the owner of the property also owns the portable storage structure. D. Gagnon answered that he took over the lease of the portable storage structure. Vice Chair Benard asked if the portable storage structure was allowed per the ordinance for six months. L. Gandia responded that was no longer the case as the ordinance was changed to allow portable storage structures by special exception and there is no time limit. She mentioned that the Board may place a time constraint on the portable storage structure, giving valid reasons for the time limit in their deliberation. D. Armstrong asked how long the lease is for the portable storage structure. D. Gagnon replied that it is month to month. M. Feig asked if the portable storage structure is off the road. D. Gagnon replied that it is at least 100-feet from the road to the portable storage structure and is on a paved driveway. M. Feig asked about any state and federal permits. B. O'Brien commented that would apply to the storage of certain chemicals. Vice Chair Benard asked how big the portable storage structure is. D. Gagnon replied that it is eight feet wide by eight feet tall and 15-feet deep. Vice Chair asked when his lease/rental for the house expires. D. Gagnon replied that he is month to month for the house as well. Vice Chair asked what is stored in the container. D. Gagnon replied that it is the contents of his previous condo.

Vice Chair Benard asked for questions from the Board.

Vice Chair Benard asked for public input. B. O'Brien read letters of support into the record, Exhibit C.

Marc Fortin, 574 Mammoth Road, Londonderry, NH, addressed the Board in favor of granting the special exception. M. Fortin commented that he is here this evening to see how the process works. He clarified that it is 20-feet long.

Vice Chair Benard brought the discussion back to the Board. M. Feig asked if there should be a time limit. L. Gandia reviewed why the criteria was changed. She noted that you can tie the special exception to the owner of the property, which may alleviate any concerns the Board might have. She added that if the Board wanted to place time limits, the Board would need to articulate for the record the reasons for the

time limit. D. Armstrong commented that the applicant stated that that he has health concerns, but is going to start going through the container and clean it out. L. Gandia pointed out that the applicant can come back to the Board in one year if he still has the portable storage structure and needs more time. M. Feig said that this particular property abuts a storage facility, so he is not really concerned about the surrounding properties. D. Armstrong agreed that this will not stand out as an eye sore given the surrounding properties. Vice Chair remarked that the applicant's testimony will be very crucial to this process. B. O'Brien mentioned that going forward, the Board will want to ask the applicant how long they want it, why they want it, etc. He read through the criteria noting that even though the form is a yes or no answer, it is going to be more involved. D. Gagnon stated that the storage facility that abuts the property has no issues with the portable structure being there. He noted that there is a white fence along one side of the portable storage structure that in his opinion makes it more attractive. B. O'Brien told the applicant that this is the first time the Board has addressed this new ordinance and they are discussing many topics that might not be relevant to the applicant's case. D. Armstrong asked if he is going to move the furniture out of the portable storage structure into the house he is renting. D. Gagnon answered that some of the furniture will be moved and some will be thrown out.

The Board reviewed the special exception criteria sheet noting:

1. Is the use detrimental to the health or safety of residents? **No**
2. Will the use will create undue traffic congestion or a traffic safety hazard in the vicinity of the proposed development? **No**
3. Will the use be incompatible with the surrounding neighborhood? **No**
4. Will the use be a detriment to property values in the vicinity of the proposed development with consideration given to the location or scale of buildings, structures, parking areas, or other access ways? **No**
5. Will a nuisance be created by such use by way of emission of odors, smoke, gas, dust, noise, glare, heat, vibration, or other pollutants; or the unsightly outdoor storage of equipment, vehicles, or other materials? **No**
6. Will the use create a hazard to the public or adjacent property on account of potential fire, explosion, or release of toxic materials? **No**
7. Will the use result in the degradation of existing surface and groundwater quality standards, or have adverse effects on the natural functions of wetlands on the site which would result in the loss of significant habitat or flood control protection? **No**
8. Will there be more than one portable storage structure per property? **No**
9. Will the portable storage structure be larger than ten feet wide, twenty feet long, and ten feet high? **No**
10. Will the portable storage structure be located to the side or rear of the principal structure on the property? **Yes**
11. Will the portable storage structure be set back a minimum of 15 feet from any side or rear lot lines, and 40 feet from any front property line? **Yes**
12. Will the portable storage structure be set back a minimum of five feet from the nearest wall of a building? **Yes**
13. Will the portable storage structure be placed on a paved, concrete, other appropriate impervious surface, or be placed on blocks? **Yes**
14. Will adequate and appropriate facilities be provided for the intended use? **Yes**
15. Will all necessary state and federal permits be obtained? **Yes**

The Board discussed the time frame they wanted to attach as a condition and decided that the current portable storage structure can be on the property for two years under D. Gagnon's name due to health issues of the applicant.

S. Brunelle made a motion in CASE NO. 05/19/2021-3 to grant the request for a special exception pursuant to LZO 5.15.1 for a portable storage structure in the AR-I district, 28 Auburn Road, Map 16 Lot 58, Zoned AR-1, Virginia St. Cyr (Owner) and Dale J. Gagnon (Applicant) with the condition that the current portable storage structure in its current location may remain until the sooner of: (1) the applicant vacates the property; or (2) the expiration of two years.

M. Feig seconded the motion.

The motion was granted, 5-0-0. The applicant's request for a special exception was GRANTED with conditions.

D. CASE NO. 05/19/2021-4: Request for a special exception pursuant to LZO 5.15.1 for a portable storage structure in the AR-I district, 136 Pillsbury Road, Map 6 Lot 18-2, Zoned AR-1, Orchard Christian Fellowship Church (Owner & Applicant)

B. O'Brien read the case into the record and the previous zoning into the record. L. Gandia informed the Board that the applicant requested a continuance because they could not meet all the special exception criteria as the container is larger than allowed. She noted that they will be filing for a variance to the criteria of the special exception.

S. Brunelle made a motion to continue CASE NO. 05/19/2021-4 request for a special exception pursuant to LZO 5.15.1 for a portable storage structure in the AR-I district, 136 Pillsbury Road, Map 6 Lot 18-2, Zoned AR-1, Orchard Christian Fellowship Church (Owner & Applicant) to July 21, 2021.

B. O'Brien seconded the motion.

The motion was granted, 5-0-0. The applicant's request for a continuance was granted.

E. CASE NO. 05/19/2021-5: Request for a variance from LZO 4.2.1.3.C.2 to encroach seven feet into the 15 foot side setback for the construction of garage, 16 Teton Drive, Map 11 Lot 20-105, Zoned AR-1, Kenneth M. Saunders (Owner & Applicant)

B. O'Brien read the case into the record reading the previous zoning cases into the record. Kenneth Saunders, owner at 16 Teton Drive, addressed the Board. K. Saunders told the Board that he is asking for a variance to build a garage on the left side of the house, as there is a deck and a septic system on the right side, along with a steep hill. S. Brunelle asked if there was a garage there as well. K. Saunders replied that there was not a garage.

He then reviewed the five criteria for the granting of the variance:

- (1) The granting of the variance is not contrary to the public interest: because if he were to place the garage on the right side of the house and comply with the variance, it would result in a very steep driveway that would be hazardous.
- (2) The spirit of the ordinance is observed: because the driveway would be very steep if the garage had to be built on the right side, which would be a danger to those using the driveway and the public, especially in the winter time when the driveway would be slippery.
- (3) Substantial justice is done: because by placing the driveway on the left side of the house it will promote safe and convenient vehicular movement.
- (4) Values of surrounding properties are not diminished: because by placing vehicles in the garage and adding a garage as an improvement, the values of surrounding properties will be enhanced.
- (5) There is no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the property is unique as the driveway would need to be removed on the left with the construction of a very steep driveway on the right as well as moving the septic system. He said that the proposed use is a reasonable one.

Vice Chair Benard asked for questions from the Board. B. O'Brien asked if there was an abutter to the left of his house. K. Saunders replied that there is not. M. Feig asked who owns the property to the left of his house. K. Saunders replied that the town owns the property. M. Feig asked if the town was notified. L. Gandia clarified that the State of New Hampshire, the owner of the abutting parcel, was notified. D. Armstrong asked how far into the setback the garage would encroach. K. Saunders replied seven feet into the 15-foot side setback. Vice Chair Benard asked if the garage depicted in the packet, specifically one big door, would be what the applicant would construct. K. Saunders replied that was correct. Vice Chair Benard asked how high the garage door is. K. Saunders replied that he is not sure, but stated it would be a typical garage door, which might be seven feet. Vice Chair asked what the windows on the rendering were meant to be. K. Saunders answered it would be a garage on the bottom with a great room above it. Vice Chair asked if the great room would be attached to the house. K. Saunders replied that was correct. Vice Chair asked if the great room was going to be used as an office. K. Saunders replied that it would not be used as an office. Vice Chair asked if the applicant was going to use the garage for his own vehicles. K. Saunders responded that was correct. Vice Chair asked if any repairs would be done out of the garage. K. Saunders replied that only his personal vehicles would be stored in it. M. Feig asked when the applicant would start on the project. K. Saunders replied if it is approved tonight, he would start right away. S. Brunelle asked if the variance would need to be modified to include the great room, as it was just for a garage. L. Gandia commented that the variance is for the encroachment into the setback versus a variance for a garage with a great room. She added that if it was discovered that the applicant was encroaching more than what he asked for, then the applicant would withdraw the application and start the process again. M. Feig asked if an abutter would mind if they were building a great room. L. Gandia explained that if the Board is concerned about this, The Board could request that the applicant withdraw this application, file a new application and pay the application and abutter fees. She added that the applicant will have missed the deadline for the June meeting, so the next available

meeting date would be in July. B. O'Brien asked if the abutters were provided with the drawings when notified about the application. L. Gandia replied that the abutters are sent a certified letter stating the request, the time of the meeting and what you can do as an abutter, but not the drawings. She noted that any member of the public can come in and view the application or have it e-mailed to him/her. The Board discussed the fact that the great room does not change the encroachment. D. Armstrong asked if the rendering should be more professional in nature. Vice Chair Benard reviewed what happens if the variance would be granted and then the code enforcement officer would issue a permit.

Vice Chair Benard asked for public input. B. O'Brien read the letters of support into the record, Exhibit D.

The Board closed public input and began deliberation:

- (1) The variance would not be contrary to the public interest: because there is no threat to public health, safety or welfare or alter the essential character of the neighborhood.
- (2) The spirit of the ordinance would be observed: because the essential character of the neighborhood is not altered.
- (3) Substantial justice would be done: because the benefit to the applicant outweighs and loss to the public.
- (4) Values of the surrounding properties would not be diminished: because the essential character would not be changed.
- (5) There is not a fair and substantial relationship that exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: because the property is unique as the slope on the right hand side would be too steep for a driveway, the driveway is currently on the left side and the septic system would need to be moved. The proposed use is a reasonable one.

B. O'Brien made a motion in CASE NO. 05/19/2021-5 to grant the request for a variance from LZO 4.2.1.3.C.2 to encroach seven feet into the 15 foot side setback for the construction of garage, 16 Teton Drive, Map 11 Lot 20-105, Zoned AR-1, Kenneth M. Saunders (Owner & Applicant)

M. Feig seconded the motion.

The motion was GRANTED, 5-0-0. The applicant's request for a variance was GRANTED.

F. CASE NO. 05/19/2021-6: Request for a variance from LZO 4.2.1.4.A to allow chickens on a 1.10 acre lot where two acres are required, Two Priscilla Lane, Map 2 Lot 27-25, Mark and Brenda Pucciarelli (Owners) and Olivia Pucciarelli (Applicant)

B. O'Brien read the case into the record noting the previous zoning cases. Olivia Pucciarelli, owner at Two Priscilla Lane, addressed the Board.

She then reviewed the five criteria for the granting of the variance:

- (1) The granting of the variance is not contrary to the public interest: because it does not threaten the health, safety or welfare of the general community.
- (2) The spirit of the ordinance is observed: because the property is not located in a spot where the additions of two chickens will cause any sight, sound or other pollution.
- (3) Substantial justice is done: because the loss to the applicant would outweigh any gain to the public.
- (4) Values of surrounding properties are not diminished: because the two chickens would not be hazardous to the surrounding property values.
- (5) There is no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because by granting the variance it will not dilute the intent of the ordinance to those who create it or those whom it serves. She said that the proposed use is a reasonable one.

Vice Chair Benard asked for questions from the Board. I. Macarelli asked what a rescue chicken is. O. Pucciarelli replied that they are chickens that are picked on a farm due to the hierarchy and she would rescue them. D. Armstrong asked where the chicken coop would be located. O. Pucciarelli replied that it would be on the side of the house parallel to Betty Lane in a wooded area. S. Brunelle asked why her property is unique versus other property. O. Pucciarelli replied that it is corner lot, she has more trees or a wooded area on her lot that is different from other neighbors. S. Brunelle asked if the applicant had any neighbors across the street. O. Pucciarelli replied that she did. S. Brunelle asked if the applicant's property was on a hill. O. Pucciarelli responded that was correct. The Board reviewed Google Earth images of the applicant's property.

Vice Chair Benard asked for public input.

Brenda Pucciarelli, Two Priscilla Lane, addressed the Board in favor of granting the variance.

Vice Chair Benard brought the discussion back to the Board. M. Feig said that the corner lot is not that convincing as making this property unique. He noted that it is not a busy area, as some requests have been. D. Armstrong commented that he also feels as the property is not very unique. Vice Chair Benard stated that the applicant is a corner lot, off West Road, which is a busy road and they are very heavily wooded. She noted that the other homes in the neighborhood do not have trees surrounding like the applicant's property does. B. O'Brien remarked that this might be the toughest one the Board has come across. He mentioned that the property is elevated more so than the other properties and there is more acreage behind it. Vice Chair Benard reminded the Board that the applicant is only asking for two chickens and they will not be free range. M. Feig discussed the other variance requests the Board has had before regarding chickens. D. Armstrong noted that the chickens would be in a cage, in the woods and out of sight. B. O'Brien argued that the elevation is unique and there is more land behind the property in question than the other parcels. S. Brunelle stated that the variance runs with the land, so the next homeowner can have the chickens. M. Feig voiced his opinion that he believes the town needs to revisit the ordinance and possibly change the acreage. D. Armstrong asked if there was a maximum

amount of chickens someone could have with the variance. Vice Chair Benard replied that there is no maximum.

The Board closed public input and began deliberation:

- (1) The variance would not be contrary to the public interest: because there is no threat to public health or safety or alter the essential character of the neighborhood.
- (2) The spirit of the ordinance would be observed: because there is no threat to the public health, safety or welfare of the general public.
- (3) Substantial justice would be done: because the loss to the applicant would not outweigh any gain to the public.
- (4) Values of the surrounding properties would not be diminished: because the essential character would not be changed.
- (5) There is not a fair and substantial relationship that exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: because the property is unique as the distance behind the house is greater than all the other properties and the elevation is different than all the other properties. The proposed use is a reasonable one.

B. O'Brien made a motion in CASE NO. 05/19/2021-6 to grant the request for a variance from LZO 4.2.1.4.A to allow chickens on a 1.10 acre lot where two acres are required, Two Priscilla Lane, Map 2 Lot 27-25, Mark and Brenda Pucciarelli (Owners) and Olivia Pucciarelli (Applicant) with the following condition that there be no more than two chickens and said chickens shall not be free range.

I. Macarelli seconded the motion.

The motion was GRANTED, 4-1-0. The applicant's request for a variance was GRANTED with conditions.

VI. Other Business

Adjournment:

M. Feig made a motion to adjourn at 9:50 p.m. B. O'Brien seconded the motion. The motion was granted, 5-0-0. The meeting adjourned at 9:50 p.m.

RESPECTFULLY SUBMITTED,


CLERK

TYPED AND TRANSCRIBED BY Beth Morrison, Recording Secretary.

APPROVED (X) WITH A MOTION MADE BY B. O'Brien, SECONDED BY B. Benard, 3-0-0.



Arthur Berte & Mary Polley-Berte

13 King Arthur Dr.

Londonderry, NH 03053

Town of Londonderry, NH Zoning Board Adjustment

268B Mammoth Road

Londonderry, NH 03053

5/13/2021

To whom it may concern:

15 King Arthur Drive abuts my property at 13 King Arthur Dr. Edward Curran has informed us that he would like to build a good quality, attractive shed on his property to the left of my house. We understand he also plans to add additional parking on his property on the same side, behind the shed. He explained he will install an aesthetically pleasing fence between the properties.

The Currans have been good neighbors and care well for their home and property. We trust their judgement to enhance their property in a manner that is complimentary to their home, our property and the neighborhood.

We have no objections to the project as he has described to us.

Kind regards,

A handwritten signature in cursive script, appearing to read 'Arthur Berte'.

Arthur Berte

A handwritten signature in cursive script, appearing to read 'Mary Polley-Berte'.

Mary Polley-Berte



Eddie Curran <ecurran555@gmail.com>

RE: 15 king Arthur Dr. Shed Variance

1 message

Nick Codner <ncodner@londonderrynh.org>
To: Eddie Curran <ecurran555@gmail.com>

Wed, Mar 31, 2021 at 10:07 AM

Hi Ed,

After meeting with you and walking your property I agree with your assessment of the conditions of your property and the reasoning for the location of your future shed.

With wet lands, slopes, and your pool, there is nowhere to locate the shed on the rear of your property. With the placement of your house there is nowhere to place the shed on the sides of your property.

I also agree that if you are granted variances to encroach on your side and front setbacks you will need to place your shed far enough forward from your house to allow necessary access to the rear of your house for maintenance.

Thank You,

Nick Codner
Building Inspector
Londonderry, NH

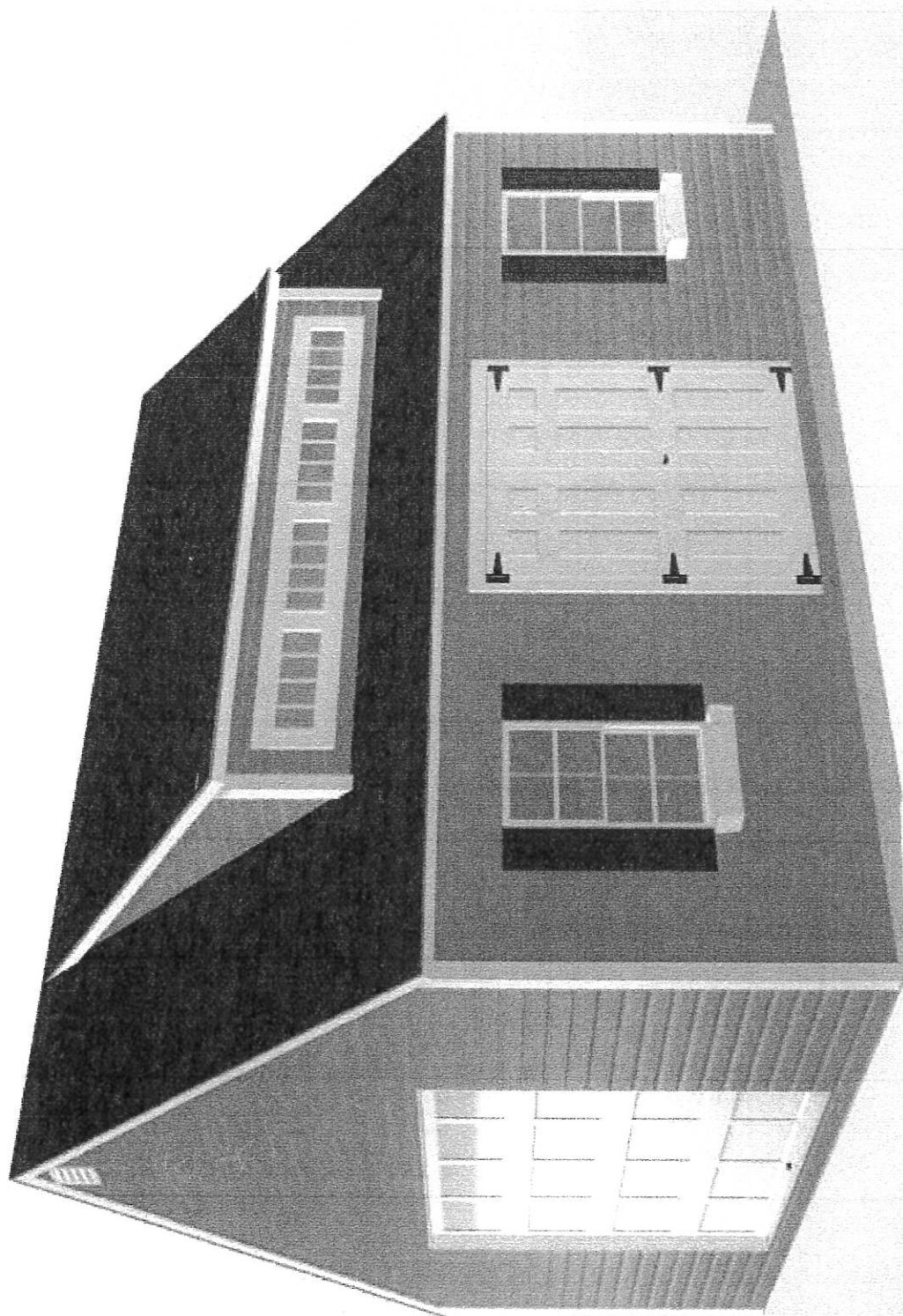
From: Eddie Curran <ecurran555@gmail.com>
Sent: Friday, March 26, 2021 11:29 AM
To: Nick Codner <ncodner@londonderrynh.org>
Subject: 15 king Arthur Dr. Shed Variance

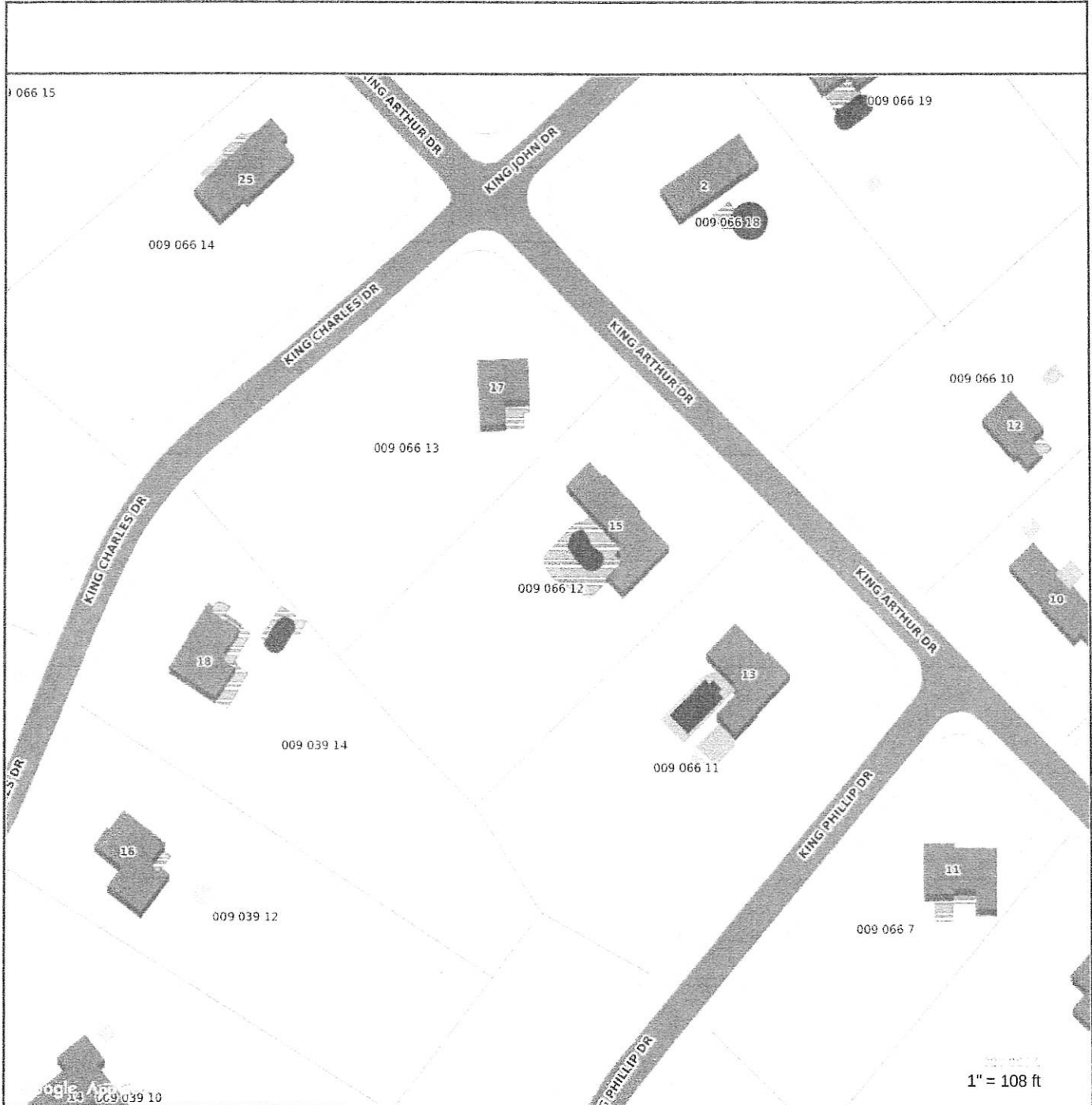
Hi Nick,

Thank you again for coming out to my property. I appreciate you walking the property with me to determine the most appropriate shed placement with the physical restrictions of the property. I have submitted my variance paperwork and I will be on the May 19th agenda. Per our conversation, if you could please provide me your thoughts on this after walking the property with me I would greatly appreciate it.

In order to provide access to the well and other mechanical components needing service, we need to provide clearance between the house and the placement of the new shed in the front to allow equipment the necessary space for access. This is why the shed will encroach on the front property line setback. When we walked the property we determined that due to the wetland area behind the pool area, and the slope of the property the proposed location was necessary.

Thank you again for your time.





MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

Town of Londonderry, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 05/04/2021
Data updated 06/05/2020

Print map scale is approximate.
Critical layout or measurement
activities should not be done using
this resource.



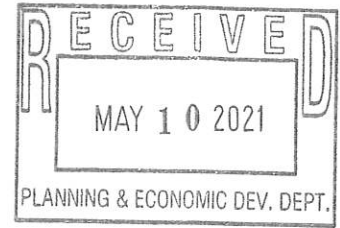
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Town of Londonderry Zoning Board of Adjustment
268B Mammoth Rd.
Londonderry, NH 03053
RE: Case No. 05/19/2021-3

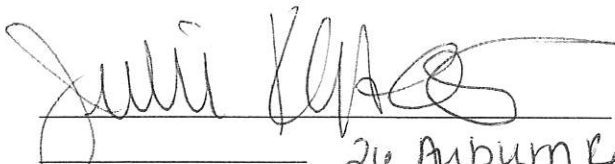


May 5, 2021

To whom it may concern,

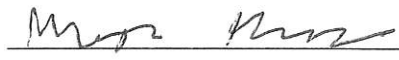
I, Julie Kopacz, and my husband, Mitchell Kopacz, both are in **support** Dale J. Gagnon's request of a storage structure located at 28 Auburn Rd. Should you have any questions for us, please contact: 603-660-6498 or email: jgkopacz@gmail.com.

Sincerely,
Julie Kopacz



Julie Kopacz 28 Auburn Rd.

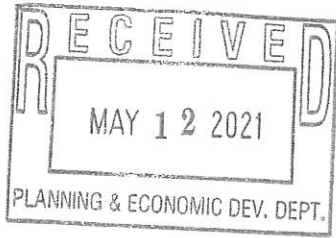
Date: 5/5/21



Mitchell Kopacz 28 Auburn Rd.

Date: 5/5/21

EXD



May 10, 2021

Anthony E. Hubert
19 Teton Drive
Londonderry, NH 03053

Town of Londonderry
Zoning Board of Adjustment
268B Mammoth Road
Londonderry, NH 03053

This letter is in regards to **Case No. 05/19/2021-5**: Request for a variance from LZO 4.2.1.3.C2 to encroach seven feet in the the fifteen foot side setback for the construction of a garage, 16 Teton Drive, Map 11 Lot 20-105, Zoned AR-1.

I have no opposition to this variance request, provided that the garage will not be used for commercial or business purposes.

Regards,

A handwritten signature in cursive script, appearing to read "Anthony E. Hubert".

Anthony E. Hubert