

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

**MINUTES FROM 06/15/22 MEETING**

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

**I. APPROVAL OF MINUTES -**

**B. O'Brien made a motion to accept the May 18, 2022, meeting minutes as presented.**

**The motion was seconded by C. Moore.**

**The motion was granted, 3-0-2, with S. Brunelle and M. Feig abstaining.**

**II. REPORT BY TOWN COUNCIL –**

D. Paul stated there was nothing to report at this time, but asked the Board if they had any concerns they would like her to bring forward. S. Brunelle asked about revising the sign ordinance. D. Paul replied that since we do not have a Town Planner at this time, a request such as the sign ordinance cannot be done at this time. D. Armstrong asked about the portable storage ordinance. D. Paul asked for L. Gandia to discuss this with the Board. L. Gandia explained that over the last two years, there were many public hearings on the portable storage container ordinance, which was adopted recently. D. Paul asked the Board for more clarity as this has just been updated. Vice Chair Benard mentioned that the Board has little direction on how to impose a fair time limit from resident to resident. D. Paul noted that the ordinance was specifically created this way to allow the Board to view each case independently and use your judgment on the time limit. She added that if a resident is doing a construction project, then it should not there indefinitely. S. Brunelle remarked that they have not heard one case for a construction project. N. Codner pointed out that in the AR-I zone, if you have a permit, you are allowed to have a portable storage container on your property for 14 days after construction is completed. D. Paul reiterated that she is hearing from the Board that most cases are from residents who need another place to keep their belongings versus using one for a project. N. Codner stated that would be a rewriting of the current ordinance. Vice Chair Benard noted that the Board had more structure in the previous ordinance, as it was more defined. D. Paul offered as a suggestion for the Vice Chair of the Zoning Board of Adjustment to attend the Planning Board to discuss the Board's concerns.

**III. REGIONAL IMPACT DETERMINATIONS:** Associate Planner Gandia informed the Board that she had two projects for their consideration.

1. CASE NO. 06/15/2022-1: Request for a variance from LZO 4.2.1.3.C.2 to encroach 5 feet into the 15 foot side setback for the construction of a shed, 16 Partridge Lane, Map 16 Lot 32-11, Zoned AR-1, David & Faith Buckley (Owner & Applicant)
2. CASE NO. 06/15/2022-2: Request for a variance from LZO 5.15.2.C to allow a portable storage structure to remain on the property indefinitely where only six months are allowed, 497 Mammoth Road, Map 15 Lot 132, Zoned C-I, Cynthia Bakios (Owner & Applicant)

**B. O'Brien made a motion that the cases are not 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. 12/15/2021-8: Request for a variance from LZO 4.2.1.3.B.1 to allow a lot with 100.58 feet of frontage where 150 feet are required, Eight Wiley Hill Road, Map 5 Lot 28, Zoned AR-I, Belize Real Estate Holding, LLC (Owner & Applicant) – continued from the April 20, 2022 meeting**

L. Gandia informed the Board that the case has been withdrawn without prejudice as they are still working with staff.

**B. CASE NO. 06/15/2022-1: Request for a variance from LZO 4.2.1.3.C.2 to encroach 5 feet into the 15 foot side setback for the construction of a shed, 16 Partridge Lane, Map 16 Lot 32-11, Zoned AR-1, David & Faith Buckley (Owner & Applicant)**

B. O'Brien read the case into the record noting the previous zoning. David Buckley, owner at 16 Partridge Lane, addressed the Board.

He then read the criteria for granting the variance:

- (1) The granting of the variance is not contrary to the public interest: because it is for private use, replacing a structure that was already there and it will not alter the character of the neighborhood.
- (2) The spirit of the ordinance is observed: because the essential character of the neighborhood is not changed and it has been there for over a decade.
- (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 replacement of the existing shed will not diminish 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 placing the new shed in front would change the character of the neighborhood, and in the back of the property there is an engineered slope to an area that regularly floods, and placing it farther away from the property line would encroach on the septic tank and leach field. He said that the proposed use is a reasonable one.

Vice Chair Benard asked for questions from the Board. I. Macarelli asked if he is replacing the shed that is already there. D. Buckley replied that is correct. D. Armstrong asked if it will be the same size. D. Buckley replied that it is not, stating the old shed was 10-feet by 16-feet and the new shed will be 12-feet by 20-feet. M. Feig asked if the new shed will be two more feet onto the property than the old shed. D. Buckley replied that is correct. S. Brunelle asked why he cannot move the shed forward more. D. Buckley responded that it would be on the septic tank and leach field. S. Brunelle asked if he submitted a plan showing this. D. Buckley replied that it was the last picture in his application packet and reviewed that with the Board. M. Feig asked if the old shed has been removed. D. Buckley replied that he did remove it.

Vice Chair Benard opened it up to public input and there was none.

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 it would not alter the essential character of the neighborhood, nor threaten the health, safety or welfare of the general public.
- (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 essential character of the neighborhood.
- (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 because of the engineered slope in the backyard and the location of the leach field. The proposed use is reasonable.

**B. O'Brien made a motion in CASE NO. 06/15/2022-1 to grant the request for a variance from LZO 4.2.1.3.C.2 to encroach 5 feet into the 15-foot side setback for the construction of a shed, 16 Partridge Lane, Map 16 Lot 32-11, Zoned AR-1, David & Faith Buckley (Owner & Applicant) with conditions:**

- 1. The shed shall not be larger than 12-feet by 20-feet.**
- 2. The shed will encroach no more than five feet into the side setback.**

**I. Macarelli seconded the motion.**

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

**C. CASE NO. 06/15/2022-2: Request for a variance from LZO 5.15.2.C to allow a portable storage structure to remain on the property indefinitely where only six months are allowed, 497 Mammoth Road, Map 15 Lot 132, Zoned C-I, Cynthia Bakios (Owner & Applicant)**

B. O'Brien read the case into the record reviewing the previous zoning with the Board. Cynthia Bakios, owner at 497 Mammoth Road, addressed the Board. L. Gandia reviewed the application with the Board, noting that the property is zoned as a C-I property but is being used as a home/residential property as a previous property owner received a variance to allow the property to be used as a residential property. She said that the request falls under the commercial district portable storage ordinance as the property is still zoned C-I despite the variance. She pointed out that the applicant is seeking relief on the amount of time a portable storage container is allowed, as it is only allowed for six consecutive months in the commercial district. C. Moore asked if there is a restriction a residential property for a portable storage container. L. Gandia replied that there is not and the Board can attach a condition for the time limit.

C. Bakios read the criteria for granting the variance:

- (1) The granting of the variance is not contrary to the public interest: because it will be used for personal use to store an antique vehicle. She added that she has no basement or garage and it would be located behind the house.
- (2) The spirit of the ordinance is observed: because the spirit of the ordinance has been observed, as it is not blocking any view or used for commercial activities.
- (3) Substantial justice is done: because there is no injustice to the general public by granting the variance.
- (4) Values of surrounding properties are not diminished: because she is a commercial zone and no neighbors can see the unit.
- (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 it has no basement or garage, is surrounded by wetlands, so there is no other place to put it. She said that the request is reasonable.

Vice Chair Benard asked for questions from the Board. D. Armstrong asked if she could build a garage in the future. C. Bakios replied that she does not know stating that she has discussed this with N. Codner. She went on noting that because of the wetlands she has to get this surveyed, and dig down four feet to put in a foundation. D. Armstrong asked if there is a possibility of this in the future. C. Bakios replied that this is a goal of hers, to construct a garage on the side of the house, for which she would need a variance as well. D. Armstrong asked what her time frame might be. C. Bakios replied that she hoped in the next couple of years, as she has other pressing issues. Vice Chair Benard pointed out that this variance would stay with the property regardless if a garage was built or not. M. Feig asked if someone could use the property commercially if she were to sell it. L. Gandia replied that it could be used for commercial use. C. Bakios remarked that the owner of the property had a hard time getting anyone to use the property commercially, due to the location and lack of parking. M. Feig asked if they could put a condition stating that the variance would sunset if the property was used commercially. L. Gandia commented that if it became a commercial property, it would go through site plan review and the variance would not apply as it was for residential use. Vice Chair Benard asked what year the home was built. C. Bakios replied she thought it was built in 1958. Vice Chair Benard asked for the exact location of the portable storage container. C. Bakios reviewed where she would like to place the container in the backyard on the screen with the Board. Vice Chair Benard asked the size of the portable storage container. C. Bakios replied that it is 8-feet by 10-feet.

Vice Chair Benard opened it up to public input and there was none.

Vice Chair Benard asked if the Board had any other questions. D. Armstrong asked if a time restriction can be placed. L. Gandia replied that the Board has the purview to put a time restriction on this. C. Moore asked if the Board can say as long as the plot is used for residential use. L. Gandia replied that it is a given, as they would need site plan review if it were to be used for commercial. Vice Chair Benard asked what kind of car is stored in there. C. Bakios replied it is a 1987 trans am that she has been storing in the portable storage container in the winter for 14 years. S. Brunelle voiced her opinion that she needs a time frame on this, as a storage unit was never intended to be a permanent structure on a property. M. Feig added that the portable storage container will degrade over time. Vice Chair Benard said that the Board is going to have to hash out a reasonable time frame. B. O'Brien commented that he thought a three to five year timeframe would be reasonable. D. Armstrong remarked that he thought she would need at least two years. N. Codner suggested that the Board could place condition that when the garage is built the portable storage unit would be taken down.

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 it does not threaten the health, safety or welfare of the general public.
- (3) Substantial justice would be done: because the loss to the applicant is greater than any gain to the public.
- (4) Values of the surrounding properties would not be diminished: because the essential character of the neighborhood is not altered.
- (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 it has wetlands, is zoned C-I, but used as residential. The proposed use is a reasonable one.

**B. O'Brien made a motion in CASE NO. 06/15/2022-2 to grant the request for a variance from LZO 5.15.2.C to allow a portable storage structure to remain on the property indefinitely where only six months are allowed, 497 Mammoth Road, Map 15 Lot 132, Zoned C-I, Cynthia Bakios (Owner & Applicant) with the following conditions:**

- 1. Until a garage is built or two years' time passed, whichever comes first.**

**M. Feig seconded the motion.**

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

**V. Communication and Miscellaneous**

- A. **REHEARING REQUEST: CASE NO. 11/17/2021-3 AND 4:** Request for a variance from LZO 4.2.2.3.B.1.b to allow 45 residential 3 bedroom units where only 20.66 are permitted, 22 Young Road, Map 6 Lot 58-2, Zoned R-III, Zoned R-III, Edgar L. Pitts and Winnifred L. Pitts Revocable Trust (Owner) and 20 Young Road, Map 6 Lot 53, Zoned R-III, Tony & Heidi Bennet (Owner) and Cedar Crest Development, LLC (Applicant)

L. Gandia told the Board that the rehearing has been withdrawn.

VI. Other Business –

L. Gandia asked for the election of officers and informed the Board that the training will be held in the fall.

**S. Brunelle made a motion to nominate Jacqueline Benard as Chair.**

**The motion was seconded by B. O'Brien**

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

**J. Benard made a motion to nominate Suzanne Brunelle as Vice Chair.**

**The motion was seconded by B. O'Brien**

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

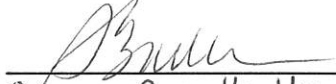
**Adjournment:**

**S. Brunelle made a motion to adjourn at 7:53 p.m.**

**B. O'Brien seconded the motion.**

**The motion was granted, 5-0-0. The meeting adjourned at 7:53 p.m.**

RESPECTFULLY SUBMITTED,

  
Suzanne Brunelle, Vice Chair

TYPED AND TRANSCRIBED BY Beth Morrison, Recording Secretary.

**APPROVED (X)** ON AUGUST 17, 2022 WITH A MOTION MADE BY Walter King, SECONDED BY Chris Moore