



# TOWN OF LITCHFIELD

LITCHFIELD ZONING BOARD OF ADJUSTMENT  
Litchfield, New Hampshire  
September 13, 2017

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

ZBA Members in Attendance (indent if absent):

Richard Riley, Chairman  
Laura Gandia, Vice Chairman  
    Albert Guilbeault  
    John Devereaux  
John Regan  
Eric Cushing (alternate)  
    Thomas Cooney (alternate)  
Greg Lepine (alternate)

Also present:

Kevin Lynch, Building & Health Department  
Tom Young, Planning Board

**I. CALL TO ORDER AND ROLL CALL**

Richard Riley called the meeting to order at 7:05pm. Alternates Greg Lepine and Eric Cushing were appointed by the Board to sit in for missing board members Albert Guilbeault and John Devereaux.

**II. PUBLIC HEARING AND DELIBERATION – CASE# 2017-02**

Rick Riley called Case #2017-02. Laura Gandia read aloud the request for a variance to the Litchfield Zoning Ordinance as recorded below.

Name of Applicant: Theroux Properties LLC  
Owner of Property: Theroux Properties LLC  
Location of Property: 16 Colby Road, Map 20, Lot 29  
Appeal requested: The Applicant seeks the following variances

1. A request for variance from LZO Section 801.00 to allow for the construction of a 80'x100' warehouse
2. A request for variance from LZO Section 300.00.d, front setback requirement
3. A request for variance from LZO Section 300.00.d, side/rear setback requirement

The Applicant, Mr. Tobin Farwell on behalf of Mr. Theroux addressed the Board and stated that what exists there now is a warehouse storage building on the side and then there is a three unit residential building; it is adjacent to Optimum and Optimum Building Solutions uses this to store their materials now, they are looking to remove the existing residential building and build another storage building.

Mr. Toland stated that they were in front of the Zoning Board in 2014 and got the allowed use for the older building, so as far as the use is concerned they are asking for the same thing. We are in demand of warehouse space and are asking for a little bit of a bigger building. Because of the size and shape of the low, we have an encroachment on the setback of 18.9' where 30' is required. Mr. Tobin stated that the building is over 35' tall and the building setback is 20 feet from the side yard and then there is that clause in at least the height of this building. This building is shorter than the existing building but is going to be 25' tall so we need a variance for the side yard setback as well.. Mr. Tobin showed on the

map where Optimum was and showed that use was going to be from this lot, there is going to be no access from Colby Road Currently. Mr. Tobin stated that Colby Road is industrial, Tims Turf is across the street and there are other warehouses and restaurants. Mr. Tobin asked if anyone had questions on the overview and Laura Gandia Stated that she did. Laura mentioned the 2014 case for the same thing asking for tonight and was granted for a non permitted use, it is a second building but already has the same use there. Kevin Lynch stated that they want to tear down the three unit residential building and put storage in its place. Laura asked what the footprint of the proposed warehouse was and Mr. Tobins stated that the proposed warehouse is 80' x100'. The building height is going to be greater than 25' so we are asking for a variance. Laura asked the proposed height on the new building, Mr. Tobin stated that they are going to say it's going to be 35' but it will probably be lower than that. The height of the existing structure is 33". Kevin Lynch mentioned that the average height for a house is 35 feet and 20 feet from the line. Mr. Tobins stated that currently the residents to park out front right now and obviously this will be eliminated. There will be no parking on Colby Road. Laura asked where the entrance will be and Mr. Tobin showed her on the map. There will be one entrance and exit way.

Mr. Tobin talked about permitted use. They are in the Northern Commercial district, permitted use includes establishments offering goods for sale including dry goods, foods, hardware, clothing, etc. But it does not state warehouse for storage which is why we need a variance. It is dry goods and building materials that are going to be stored for the use of this abutting building. People will not be coming and going, it is just for their use. Mr. Tobin stated they are requesting a variance from Section 801 the zoning ordinance which does not allow warehouse, the variance will not be contrary to public interest because the warehouse will be for storage of nonhazardous materials, building materials. The warehouse will be in support of the existing business, this was granted as a variance 4 years ago and assume the town has had no problem with the previous building, allowing the warehouse is a substantial justice is done because allowing a warehouse will allow for company growth in Litchfield. The warehouse is needed to enhance the business. The value surrounding properties will not be diminished because this is a new building on the existing lot and there has been no problems with that. Mr. Riley stated that Laura suggested that they vote on each one of these separately.

Mr. Riley Opened the meeting for Public input for the non-permitted use. Mr. Riley asked the public if they had any input whether in favor or against. No Public Input. Laura Gandia motioned to close Public Input. Mr. Regan seconded the motion. Motion passes 5-0-0.

Mr. Lepine motioned to allow permitted use for a warehouse as presented. Motioned seconded by Mr. Regan. Motion passes 5-0-0.

The use portion has been passed 5-0-0.

Mr. Tobin moved on with the side yard setback, as with the previous building they would like to adhere to the 20' side setback regardless of the height of the building. They are making it more conforming removing the residential and adding the warehouse. MR. Tobin stated this is a variance request from Zoning Ordinance 300.d Setbacks. All buildings should be setback equal to or exceeding the building. For simplicity they are requesting a 35' height maximum, staying 20' from the property line. The height of the warehouse will match the other buildings. This is a commercial area with similar sized buildings.

Mr. Riley stated that the existing warehouse is higher than 35', but at the time the use was granted there was a different use on the side setback. Mr. Lynch stated that there is a section in the zoning ordinance that he has never saw regarding the height being the same as the sideline, which he has never heard before.

Mr. Tobin explained to the board the building height and the setback he is looking for. The Board had a few questions for Mr. Tobin.

Mr. Riley asked if there were any more questions from the board. There was not.

Mr. Riley asked if there was any public input on the variance for the side setback requirements which requires 20' and they are looking for 15' setback. No public input. Laura Gandia motioned to close public input. Mr. Lepine seconded. Motion passes 5-0-0.

Public Input Closed.

Motion by Laura Gandia to grants the applicant's request to allow a variance from section 300.d to allow 15 foot encroachment on the side setback where a 35' would be required. Motion seconded by Mr. Cushing. Motion passes 5-0-0.

Mr. Tobin stated that the final one was the front yard setback, because of the nature of this parcel, and explained using the map. Mr. Tobin explained there is plenty of snow storage for the road and because they are proposing no access through Colby road, life safety has been addressed. Mr. Tobin stated they would like 18.9 away from the road.

Mr. Riley asked the Board if they had anymore questions for the applicant. Laura asked if there was any landscaping proposed. Mr. Tobin stated that as of now there is not. It will be snow storage.

Mr. Theroux stated that he was just going to leave it gravel. Laura asked about access for the fire department. Mr. Theroux stated that that is why they are leaving it gravel. Laura asked Mr. Tom Young from the Planning Board if he had any problems with granting the request of the Variance. Mr. young stated that he did not.

Mr. Riley asked if there was any Public Input for the Variance of the front setback. No Public Input. Motion by Mr. Cushing to close public input. Seconded by Mrs. Gandia.

Mr. Lepine made a stipulation that he would like the number be 32'. Laura mentioned she had a few stipulations, she does not want any parking in the front of the building and no access onto Colby Road except for emergency vehicles.

Laura Gandia made a motion to grant the applicant's request for a variance to section 300.d front setback requirements to allow a 32' encroachment into the 50' setback with the stipulation that there will be no parking in the front colby road and no access from colby road into the front of the building except from emergency vehicles. Mr. Regan Seconded the motion. Motion passes 5-0-0.

### **III. PUBLIC HEARING AND DELIBERATION – CASE# 2017-03**

Rick Riley called Case #2017-03. Laura Gandia read aloud the request for a variance to the Litchfield Zoning Ordinance as recorded below.

Name of Applicant: Roy & Dale R Arria

Owner of Property: Roy & Dale R. Arria

Location of Property: 40 Louise Drive, Map 5, Lot 86

Appeal requested: The Applicant seeks the following variance

1. A request for variance from LZO Section 300.a to allow an area of 39,821 sq. ft. where 92,120 sq. ft. is required

ZBA member Laura Gandia excused herself from the board due to conflict of interest. Richard Riley explained to the applicant that there were only 4 board members available to hear the case and that the applicant had to decide to postpone the hearing until next month or continue with only 4 members present. The applicant agreed to continue with the 4 members present.

Pete Weeks employed with T.F Bernier is in front of the board to request to propose a lot line adjustment for lot 86 owned by Mr. Arria and also Map 5 Lot 75 Owned by Parkland Estates

Cooperative. Mr. Weeks explained that in order to do the lot line adjustment, we are moving the lot line 10' which will reduce the size of lot 86 Mr. weeks stated that the main reason they are doing this is because some of the mobile homes are over the lot line in order to make them onto existing lot 75 we have to move the line 10 feet. Kevin Lynch brought the map to the Board to show them where the lot lines were. Mr. Weeks stated that the purpose of this variance is to solve the boundary line issue which has been around forever, granting this variance will increase property values and aesthetics to the lots. The values of surrounding properties will not be diminished if this variance is granted. It would improve the value of the property and have a positive aesthetic value to the property as well. If this variance is not granted we feel it would cause hardship because we feel there is not reasonable alternative besides moving mobile home which would be a monumental task. Granting this variance would result in a much better situation. Mr. Cushing asked if the owner of this property 86 is here and if they had any problems with this. They stated no. The board spoke amongst themselves and Kevin Lynch. Mr. Riley opened the meeting for Public Input. There was no public input. Mr. Regan motioned to close Public Input. Mr. Cushing seconded the motion. Motion passes 4-0-0.

The Board deliberated.

Mr. Regan made a motion to approve the variance request for LZO section 300.a to allow the property at map 5 lot 86 be further reduced from 41,741 sq.ft. to 39,821 square feet, Where 92,120 sq. ft. is currently required. Mr. Lepine seconded the motion. Motion passed 4-0-0.

#### **IV. PUBLIC HEARING AND DELIBERATION – CASE# 2017-04**

Rick Riley called Case #2017-04 for a variance to the Litchfield Zoning Ordinance as recorded below.

Name of Applicant: Parkland Estate Cooperative, Inc.

Owner of Property: Parkland Estate Cooperative, Inc.

Location of Property: Page Road & Louise Drive, Map 5, Lot 75

Appeal requested: The Applicant seeks the following variance

1. A request for variance from LZO Section 300.a to allow 3.1' to 11.8' side/rear setback where a minimum of 20' is required

Mr. Weeks came in front of the board and stated that they are moving the lot line over 10 feet to make all mobile home and as many sheds fit onto the property and in order to do that (which does not meet the 20' side set back) so we are requesting a waiver of 3.1 to 11.8 ' from the setback where 20 feet in required. Mr. Weeks stated it is only dealing with the property line that abuts lot 86.

The variance will not be contrary to the public interest because the purpose of this variance is to have those mobile homes encroaching in their property boundaries, therefore increasing the property value. The spirit of the ordinance is observed because the it will not be affecting the health safety and welfare of the community. Substantial justice is done because the proposed use is consistent with the area present use and does not alter the character of the area and conforms to the community. The values of surrounding properties are not diminished because the current use of the properties will remain the same not diminishing any property values, there will be no change to the existing property. The existing mobile homes have been encroaching for many years, and the grating of the variance will resolve the condition that already exist. Having to move the mobile homes will be a monumental task.

Mr. Regan stated that the existing mobile home can not be moved any closer than what we have here.

Kevin Lynch stated that he would not allow this.

Mr. Lynch and the Board deliberated.

#### **Public Input:**

Mr. Peterson of 7 Louise Drive asked the applicant if these are individually owned they should be dealt with individually. The lots are owned by a Cooperative.

Roxanne 6 Standish Circle just wanted to make sure the stipulation was just on that one side. Another member of the public came up to see and discuss the map.

Mr. Regan motioned to close public input. Motion seconded by Mr. Cushing. Motion passes 4-0-0.

Mr. Regan made a motion to grant the applicant a variance to 300.a to allow the structures that abut lot 86, (mobile homes numbered 9,10,11 and 12) a setback variance from between 8.2 feet and 16.9 feet (See the plan and stipulations below) where 20' is required by the LZO. Mr. Cushing seconded the motion. Motioned carried 4-0-0. Stipulation: Any structures as described on the plan today that are on or over the property boundary must be moved to be no closer than 10' from the property line.

This variance has been approved with the stipulation mentioned.

**V. ADDITIONAL BUSINESS**

No additional business

**VI. ADJOURNMENT**

Greg Lepine made a motion to adjourn the meeting at 9:00PM. Eric Cushing seconded the motion. Rick Riley called for a vote on the motion and the motion to adjourn was approved 4-0-0

Respectfully submitted,

*Donna Baril*

*Richard Riley*