



**Zoning Board of Adjustment
Town of Eaton
Evans Memorial Building
Eaton, NH 03832**

September 16, 2024

The Zoning Board of Adjustment met on Monday, September 16, 2024, at the Town Hall. Present were Chairman Steve Larson, Carol Mayhofer, Hoke Wilson, Megan Hoffer, and Pam Burns. The meeting was called to order at 6:05 pm.

Review of Minutes

Steve Larson made a motion, seconded by Pam Burns, to waive the reading of the Minutes and to adopt the Minutes from July 15, 2024, as written. Motion unanimously carried.

Chairman Steve Larson read the Public Notice and gave an overview of the procedure for Public Hearings.

Case #4– Leonardi– Variance

At 6:05 pm Chairman Larson opened the Public Hearing on an application from Timothy and Charline Leonardi for a Variance to Article V, Section C for relief from the minimum road setback for a shed on their property at 12 McCormack Lane (R09-011B).

All notices required by statute have been posted, abutters notified, and all fees paid. There were no conflicts of interest. No correspondence has been received.

Timothy and Charline Leonardi were present at the Public Hearing. Chairman Larson asked the Leonardis to give a statement of reasons they should be granted the variance.

- 1) Granting the variance **would not** be contrary to the public interest because: Timothy Leonardi stated leaving the shed at the current location is not contrary to public interest, because it is nice looking and is not blocking any neighbor's views. Timothy Leonardi also stated that their neighbors have given positive feedback about the shed.
- 2) The spirit of the ordinance **would be** observed because: Charline Leonardi stated that the shed is not blocking any views and that they personally believe the shed is far enough away from the road.
- 3) Granting the variance **would do** substantial justice because: Timothy Leonardi stated that the shed will be used to store equipment and yard items, and that he is planning on walking up the plowed road (McCormack Lane) in the winter to be able to access the shed. Timothy Leonardi also stated that he does not think he will be able to access the shed in the wintertime from any other location than where it is now.
- 4) The value of the surrounding properties **would not** be diminished because: Timothy Leonardi stated that they have no complaints from neighbors about the

shed. Charline Leonardi stated that the shed is brand new, nice-looking, and that she believes the shed improves their property.

- 5) Denial of the variance **would** result in unnecessary hardship because: Charline Leonardi stated that the shed is for residential use only and was installed where it is most convenient for them as the homeowners. Timothy Leonardi stated that the steep slope of the property would make it difficult to place the shed in a different location. Charline Leonardi stated that if the shed was moved somewhere else, trees would have to be cut down.

Carol Mayhofer asked why a building permit was not obtained before the shed was installed. Timothy Leonardi stated that because the structure is moveable and not permanent, they did not realize a building permit would be required. Charline Leonardi added that they have obtained building permits for other projects, and that not obtaining a permit for the shed was an honest mistake. Carol Mayhofer asked if the company that built the shed mentioned the need for a building permit. Timothy Leonardi replied that they did not. Steve Larson asked when the shed was installed. Timothy Leonardi stated that the shed was installed about a month ago (August of 2024). Carol Mayhofer asked if there was enough flat land near the garage to place the shed. Charline Leonardi stated that the area is too steep and there is also a retaining wall in the way of that location. Timothy Leonardi also stated that the current shed was placed on an old foundation from a structure similar in size to the new shed. Carol Mayhofer asked if it was possible to cut some trees to the left of the shed so it could be moved farther from the road. Timothy Leonardi stated that the area to the left of the shed is where the land starts to slope.

There being no public present, Chairman Larson did not initiate a Public Hearing. The Board began to discuss and answer the questions on the Variance Worksheet.

1. Granting the variance would/would not be contrary to the public interest because:

- Megan Hoffer answered that because there aren't many people living on that road and they all seem to approve of the shed placement, granting the variance **would not** be contrary to public interest.
- Pam Burns stated that the shed placement **would not** be contrary to public interest because it is not going to interfere with any neighbor's property.
- Carol Mayhofer stated that the shed placement **would** be contrary to public interest because it does not meet the setback requirements. Carol Mayhofer also stated that the residents of the Town were the ones who voted for the laws, and that the Zoning Board's job is to uphold the laws. Carol Mayhofer stated that she does not believe the Zoning Board has the flexibility to grant the variance in this case.
- Hoke Wilson stated that granting the variance **would not** be contrary to public interest, because he feels the applicants are obviously concerned with the aesthetics of their property and placing items in a shed instead of just leaving them out in the yard is proof of that.
- Steve Larson stated that granting the variance **would** be contrary to public interest, because rules are rules, and just because the applicants claim to not have known the rules does not mean they are absolved from the Zoning Ordinances. Steve Larson also stated that the Zoning Board has nothing to do with the rules except to enforce them, and they can only give relief from the rules if the applicants meet the criteria to do so.

2. The spirit of the ordinance would/would not be observed because:

- Megan Hoffer stated that the spirit of the ordinance **would** be observed. Megan Hoffer stated that the Town's zoning laws and variances are for the Zoning Board to use when they deem it appropriate. Megan Hoffer also stated that it made sense to her to grant the variance and not make the applicants move the shed to an area where the ground could flood or where they would have to cut down trees.
- Pam Burns stated that the spirit of the ordinance **would** be observed since the new shed was placed on an old foundation for a similar-sized structure, it would only be fair to approve a new structure for that area as well.
- Carol Mayhofer stated that the spirit of the ordinance **would not** be observed because the idea you can build things on your property and not consider setback rules is inappropriate. Carol Mayhofer stated that she agrees that the shed makes things look nice and neat, but that is not a reason to grant a variance in this case.
- Hoke Wilson stated that the spirit of the ordinance **would** be upheld because he believes that the applicants would move the shed to a different location if they were able to.
- Steve Larson stated that the spirit of the ordinance **would not** be upheld because the structure "looking nice" is not part of the ordinance and should not be considered by the Zoning Board. Steve Larson stated that the applicants have a large piece of property to work with and there should be a different location for the shed available.

3. Granting the variance would/would not do substantial justice because:

- Megan Hoffer stated that granting the variance **would** do substantial justice because the applicants seem to have a hardship on the lot of steep slopes and some flooding.
- Pam Burns stated that she feels granting the variance **would** do substantial justice.
- Carol Mayhofer stated that granting the variance would do justice for the applicants but **would not** do justice for the ordinance.
- Hoke Wilson stated that granting the variance **would** do justice for the applicants.
- Steve Larson stated that he does not believe the Selectmen would have approved a building permit for that location, and that any time people do not have a permit, the Zoning Board makes them conform. Steve Larson stated that he feels that having the shed meet setbacks in this case should be easy, and therefore granting the variance **would not** do substantial justice. Steve Larson asked if the applicant's in-ground pool and driveway were built on a steep slope. Timothy Leonardi confirmed that they were. Steve Larson stated that making the shed conform should not be much of a problem since they were able to do those projects on a steep slope.

4. For the following reasons, the value of the surrounding properties would/would not be diminished: The Board agreed unanimously that the new shed is nice looking and **would not** diminish the value of the surrounding properties.

5. Unnecessary Hardship:

- A. Owing to the special conditions of the property that distinguish it from other
- B. properties in the area, denial of the variance would result in unnecessary

hardship because:

1. **There is/is not a fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property because:**

- Megan Hoffer stated that it **is** fair.
- Carol Mayhofer stated that there **is not** a fair relationship between the ordinance and the specific application. Carol Mayhofer stated that just because the applicants claim there are steep slopes and wetness on their property does not mean the Town has to allow you to have a shed.
- Hoke Wilson stated that while it is not mandatory to have a shed, it is reasonable to want a nice appearance on the property and for the neighborhood. Hoke Wilson stated that he believes it **is** fair, because he believes the applicants being made to store their items completely outdoors is not reasonable.
- Pam Burns referenced the septic plans on the property, which show elevation. Pam Burns asked if the shed could be moved alongside the driveway and stated that it looked possible for the shed to be installed there easily. Timothy Leonardi stated that that proposed location was actually closer to the road and a steeper slope than it appears on the septic map. Pam Burns then stated that she believed it **is** fair.
- Steve Larson stated that hardships are characteristics of land that prevent you from doing what you want to do on your property. Steve Larson stated that hardship has nothing to do with the financial costs of the project, it is the land essentially working against you and that the applicant's neighbors on the hill all have the same hardship. Steve Larson stated that the applicants must address the steep slopes and make decisions about cutting down trees, and that those are constraints the applicants have put upon themselves. Steve Larson stated that it is not a lot to ask to have the applicants place the shed on an area of steep slope and have the shed leveled and stated that that would have been the requirement if they had asked permission to build the shed first. Steve Larson stated that with a little bit of thought, the applicants could easily have placed the shed in an appropriate location, and for that reason, he feels it **is not** fair.

Chairman Steve Larson made a motion, seconded by Pam Burns, that based on the above findings of fact, the Variance be granted. Megan Hoffer voted yes. Carol Mayhofer voted no. Steve Larson voted no. Hoke Wilson voted yes. Pam Burns voted yes. The Variance was approved by a vote of 3-2.

Steve Larson stated that while the Variance was approved, the applicants will still need to obtain a building permit from the Selectmen.

Steve Larson made a motion, seconded by Carol Mayhofer, to adjourn the meeting. Motion unanimously carried. The meeting was adjourned at 7:13 pm.

Respectfully submitted,

Bethany Hicks

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