

TOWN OF LONDONDERRY  
ZONING BOARD OF ADJUSTMENT  
MOOSE HILL COUNCIL CHAMBERS  
268B MAMMOTH ROAD  
LONDONDERRY, NH 03053

NOVEMBER 15, 2023, MEETING  
7:00 P.M.

**I. CALL TO ORDER**

**Members Present:** Suzanne Brunelle, Vice Chair; Brendan O'Brien, Clerk; Irene Macarelli, Full Member; Mitchell Feig, Full Member; Chris Moore, Alternate Member; Robert Robicsek, Alternate Member

**Also Present:** Nick Codner, Chief Building Inspector; Benjamin Bennett, Town Planner

Vice Chair Brunelle called the meeting to order at 7:00 p.m. and described the meeting procedure.

**B. O'Brien moved to appoint C. Moore as a voting member on the first and third variance requests and R. Robicsek as a voting member on the second variance request to ensure a full board. M. Feig seconded the motion. A vote was taken, all were in favor. The motion passed 5-0-0.**

**II. APPROVAL OF DRAFT MINUTES – OCTOBER 18, 2023**

**B. O'Brien moved to accept the minutes of the October 18, 2023, meeting as written. I. Macarelli seconded the motion. A vote was taken, all were in favor. The motion passed 5-0-0.**

**III. REPORT BY TOWN COUNCIL LIAISON**

There was no report by the Town Council Liaison.

**IV. REGIONAL IMPACT DETERMINATIONS**

B. Bennett announced that for the two cases under consideration, 11/15/2023-1 and 11/15/2023-2, staff is recommending that they are not developments of regional impact.

**B. O'Brien moved to accept the regional impact determination. I. Macarelli seconded the motion. A vote was taken, all were in favor. The motion passed 5-0-0.**

**V. PUBLIC HEARING OF CASES:**

49  
50 **A. CASE NO. 10/18/2023-2: Request for a variance from**  
51 **4.2.1.3.C.1 and 4.2.1.3.C.2 to permit an encroachment into the**  
52 **forty (40) foot front setback and fifteen (15) foot side setback**  
53 **for the construction of an addition. The parcel is located at 41**  
54 **Noyes Road in the Agricultural Residential (AR-1) zoning**  
55 **district. Tax Map 15, Lot 41. Stacy & Brian Meskell (Owners)**  
56 **and Arthur Carbone (Applicant). Continued from October 18,**  
57 **2023.**  
58

59 B. O'Brien read the case into the record.  
60

61 Brian Meskell appeared before the Board to present the request to enclose the  
62 existing deck to provide more living space.  
63

64 He reviewed the criteria for granting the variance:  
65

66 1) Granting the variance will not be contrary to the public interest because they will  
67 be building on an existing structure, with the same dimensions.  
68

69 2) The spirit of the ordinance is observed because they want to use the additional  
70 space for a family room.  
71

72 3) Substantial justice will be done by granting the variance because the home was  
73 built prior to the zoning regulations. They want to enclose the existing deck to  
74 create a family room.  
75

76 4) The value of the surrounding properties will not be diminished because they will  
77 not be expanding the width or length of the existing structure.  
78

79 5) Literal enforcement of the provision of the ordinance would result in an  
80 unnecessary hardship because the structure was built prior to the zoning laws and  
81 restrictions. The addition will be on the existing site. No additional width or length  
82 will be used.  
83

84 The Board reviewed the GIS map, which was not presented with the original  
85 application. B. Meskell clarified they need 10 feet to the front and 5 feet to the side  
86 into the setbacks.  
87

88 Vice Chair Brunelle asked for Board questions. They clarified it will be on the same  
89 footprint.  
90

91 Vice Chair Brunelle asked for public input; there was none.  
92

93 The Board closed public input and began deliberation.  
94

95 1) Granting the variance would not be contrary to the public interest because it  
96 does not alter the character of the neighborhood.

97  
98 2) The spirit of the ordinance would be observed because there is no impact on the  
99 health, safety, or welfare of the general public.

100  
101 3) Granting the variance would do substantial justice because the loss to the  
102 applicant is greater than any gain to the public.

103  
104 4) The values of the surrounding properties would not be diminished.

105  
106 5) Owing to special conditions of the property that distinguish it from other  
107 properties in the area, denial of the variance would result in unnecessary hardship  
108 because there is not a fair and substantial relationship between the general public  
109 purpose of the ordinance provision and the specific application of that provision to  
110 the property. The property was built prior to the zoning laws. The proposed use is a  
111 reasonable one because enclosing a room is reasonable.

112  
113 **B. O'Brien moved to grant the request for a variance in Case No.**  
114 **10/18/2023-2 from 4.2.1.3.C.1 and 4.2.1.3.C.2 to permit an encroachment**  
115 **of no more than 10 feet into forty (40) foot front setback and no more than**  
116 **5 feet into the fifteen (15) foot side setback for the construction of an**  
117 **addition. C. Moore seconded the motion. A vote was taken. The motion was**  
118 **granted 5-0-0. The applicant's request for a variance was GRANTED, with**  
119 **the conditions of no more than a 10-foot encroachment into the front**  
120 **setback and no more than a 5-foot encroachment into the side setback.**

121  
122 **B. CASE NO. 11/15/2023-1: Request for a variance from**  
123 **7.6.D.3.b.i to permit 772 square feet of wall signage whereas**  
124 **50 square feet is the maximum permitted. The parcel is located**  
125 **at 33 Londonderry Road in the Commercial II (C-II) zoning**  
126 **district. Tax Map 10, Lot 87. Fawcett Properties, LLC (Owner)**  
127 **and Scott Fawcett (Applicant).**

128  
129 B. O'Brien read the case into the record.

130  
131 Scott Fawcett appeared before the Board to present his request. They are moving  
132 their business to 33 Londonderry Road and are requesting a variance to install  
133 three signs of 200 square feet each. This is a change from the original request for  
134 772 square feet of signage.

135  
136 He reviewed the criteria for granting the variance:

137  
138 1) Granting the variance will not be contrary to the public interest because the  
139 signs are consistent, clean, professional, and polished, and will protect the viability  
140 and livability quality of the Town of Londonderry.

141  
142 2) The spirit of the ordinance is observed because they have clean, professional  
143 static signage displaying their logo. Their goal is to take an eyesore of a building  
144 and make it into a site of excellence.

145  
146 3) Substantial justice will be done by granting the variance because they are  
147 enhancing the Town's ability to attract and encourage economic development and  
148 growth of homeowners. Larger signage is safer for passing motorists.

149  
150 4) The value of the surrounding properties will not be diminished because their  
151 intent is to improve the building and the location. They want to be an example for  
152 Londonderry, especially as Exit 4A property and the Londonderry market continues  
153 to expand.

154  
155 5) No fair and substantial relationship exists between the general public purpose of  
156 the ordinance and the specific application of that provision to this property. The  
157 property is unique, as it has visibility on all four sides. They believe their request is  
158 fair and reasonable for the size of the property, and the location and proximity to  
159 the highway.

160  
161 Vice Chair Brunelle asked for Board input. They clarified the request is for two signs  
162 on Londonderry Road and one on the highway side. They also clarified that lights  
163 would be located underneath the signs. The Board discussed the change from a  
164 multi-tenant to a single-tenant building.

165  
166 Vice Chair Brunelle asked for public input; there was none.

167  
168 The Board closed public input and began deliberation.

169  
170 1) Granting the variance would not be contrary to the public interest because it will  
171 not alter the character of the neighborhood.

172  
173 2) The spirit of the ordinance would be observed because it promotes health,  
174 safety, and general welfare. It is necessary to know what is in the building and  
175 signs are helpful in directing traffic.

176  
177 3) Granting the variance would do substantial justice because denial of the variance  
178 would be a greater loss to the applicant than any gain to the public.

179  
180 4) The values of the surrounding properties would not be diminished.

181  
182 5) Owing to special conditions of the property that distinguish it from other  
183 properties in the area, denial of the variance would result in unnecessary hardship  
184 because there is not a fair and substantial relationship between the general public  
185 purpose of the ordinance provision and the specific application of that provision to  
186 the property. The building is located near Route 93 and it has visibility on all four  
187 sides.

188  
189 The proposed use is a reasonable one because signage is reasonable.

190  
191 The Board noted that Exhibit A is the photograph showing signage on the  
192 Londonderry Road side of two 200 square-foot signs, 20 feet wide x 10 feet high.

Exhibit B is the rendering showing the building facing the highway, with one 200 square foot 20 foot x 10 foot high sign.

**B. O'Brien moved to grant the request for a variance in Case No. 11/15/2023-1 from 7.6.D.3.b.i to permit 600 square feet of wall signage whereas 50 square feet is the maximum permitted. The parcel is located at 33 Londonderry Road in the Commercial II (C-II) zoning district. Tax Map 10, Lot 87. Fawcett Properties, LLC (Owner) and Scott Fawcett (Applicant), with the restriction that as to size and location of the signs as presented in Exhibit A and Exhibit B, which were marked during deliberations. R. Robicsek seconded the motion. A vote was taken. The motion was granted 5-0-0. The applicant's request for a variance was GRANTED, with the restrictions indicated.**

**C. CASE NO. 11/15/2023-2: Request for a variance from 4.2.1.3.c.4 to permit an encroachment of 15 feet into the forty (40) foot right-of-way setback for the construction of a shed. The parcel is located at 16 Preserve Drive in the Agricultural-Residential (AR-1) zoning district. Tax Map 8, Lot 20-5. Adam & Michelle Harnish Joint Living Trust (Owners) and Adam & Michelle Harnish (Applicants).**

B. O'Brien read the case into the record.

Adam and Michelle Harnish appeared before the Board to present their request to construct a shed. M. Harnish noted there is total of 65 feet in setbacks from the northern border of their property, including a future 25-foot right-of-way easement and a 40-foot setback requirement. A. Harnish said he believes the future right-of-way might be to connect Preserve Drive to Colonial, but he does not foresee this happening. The right-of-way impacts their land for development. He said the jurisdictional wetlands to the southeast also impact developing their property. They are requesting an encroachment of 20 feet into the 40-foot setback.

M. Harnish reviewed the criteria for granting the variance:

1) Granting the variance will not be contrary to the public interest because it will not alter the essential character of the neighborhood or threaten the health, safety, or welfare of the general public. The shed will be placed within the lot boundaries, and there are no neighbors to the north or east side of their property.

2) The spirit of the ordinance is observed because this variance will not violate or conflict with the spirit and intent of the ordinance, and will not alter the essential character of the neighborhood or threaten public health, safety, or welfare. The shed will be placed adjacent to their driveway.

3) Substantial justice will be done by granting the variance because the benefit to the homeowners will not be outweighed by the any harm to the general public.

4) The value of the surrounding properties will not be diminished by the placement of a professionally manufactured, aesthetically pleasing shed. It is consistent with the design style of the properties in the neighborhood. Many homes in the neighborhood already have sheds. It will not alter the essential character of the neighborhood.

5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because due to the special conditions of the property, it cannot be reasonably used in strict conformance of the ordinance. Due to these special conditions, no fair and substantial relationship exists between the general public purpose of the ordinance and the specific application of that provision to this property. This proposed use is a reasonable one.

Vice Chair Brunelle asked for Board input. The Board discussed if there are other locations where the shed could be placed and decided there are none, due to the location of the well and septic. The only possible location is the future site of a detached garage. Most of the shed will be placed in the easement, but it will not exceed 20 feet into the easement.

Vice Chair Brunelle asked for public input; there was none.

The Board closed public input and began deliberation.

1) Granting the variance would not be contrary to the public interest because it will not alter the character of the neighborhood.

2) The spirit of the ordinance would be observed because there are no health, safety, or welfare issues.

3) Granting the variance would do substantial justice, as denial of the variance would be a greater loss to the applicant than any gain to the public.

4) The values of the surrounding properties would not be diminished.

5) Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because there 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, given the right-of-way and the wetlands.

The proposed use is a reasonable one because a shed is reasonable.

**B. O'Brien moved to grant the request for a variance in Case No. 11/15/2023-2, with the restrictions that the shed encroach no more than 20 feet into the right-of-way setback and the shed be no larger than 14 feet by 24 feet. I. Macarelli seconded the motion. A vote was taken. The motion was granted 5-0-0. The applicant's request for a variance was GRANTED, with the restrictions indicated.**

289  
290 **VI. COMMUNICATIONS AND MISCELLANEOUS**

291  
292 The next meeting is scheduled for December 20, 2023.

293  
294 **VII. OTHER BUSINESS**

295  
296 **VIII. ADJOURN**

297  
298 **R. Robicsek moved to adjourn. B. O'Brien seconded the motion. A vote was**  
299 **taken; all were in favor. The motion passed 5-0-0. The meeting was**  
300 **adjourned at 8:02 p.m.**

301  
302 Respectfully submitted,

303  
304 Beth Hanggeli  
305 Recording Secretary