

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

MINUTES FROM 07/15/20 MEETING

The meeting was called to order at 7:00 p.m. Members introduced themselves. The following members were present: Jacqueline Benard, Vice Chair; Jim Tirabassi, Clerk; Brendan O'Brien, alternate member; Mitch Feig, alternate member. Also, participating were Laura Gandia, Associate Planner; Bradley Anderson, Code Enforcement Officer; and Beth Morrison, Recording Secretary. Vice Chair Benard reviewed the hearing procedures. He appointed B. O'Brien and M. Feig as full voting members.

I. APPROVAL OF MINUTES

J. Tirabassi made a motion to accept the June 17, 2020, minutes as presented.

The motion was seconded by M Feig.

The motion was granted by, 4-0-0.

REPORT BY TOWN COUNCIL – There was no update this evening.

II. REGIONAL IMPACT DETERMINATIONS: Associate Planner Gandia informed the Board that she had four projects for their consideration.

1. CASE NO. 07/15/2020-2: Request for a variance from LZO 4.2.1.4 to allow 10 chickens on a lot less than two acres, 18 Lancaster Drive, Map 7 Lot 51-29, Zoned AR-1, Erica Laue & Nicholas Thrasher (Owners & Applicants)
2. CASE NO. 07/15/2020-3: Request for a variance from LZO 5.14 to allow a six-foot fence to encroach 38.7 feet into the front 40-foot setback where only fences four feet in height are allowed, Two Grist Mill Hollow, Map 18 Lot 13-10, Zoned AR-1, Douglas & Robin Perry (Owners & Applicants)

Associate Planner Gandia recommended the Board find that these two projects are not developments of regional impact as they do not meet the criteria set forth by the Southern New Hampshire Regional Planning Commission.

B. O'Brien made a motion to find these two of these projects are not of regional impact.

M. Feig seconded the motion.

The motion was granted, 4-0-0.

III. PUBLIC HEARING OF CASES

A. CASE NO. 07/15/2020-2: Request for a variance from LZO 4.2.1.4 to allow 10 chickens on a lot less than two acres, 18 Lancaster Drive, Map 7 Lot 51-29, Zoned AR-1, Erica Laue & Nicholas Thrasher (Owners & Applicants)

Vice Chair Benard reviewed the number of voting members with the applicants, as there are only four voting members of the Board this evening informing the applicant that she could request a continuance to hopefully have a full complement of members on August 19, 2020. The applicant stated she wished to proceed this evening. J. Tirabassi read the case into the record noting there is no previous zoning cases for this property. Eric Laue, owner of 18 Lancaster Drive, addressed the Board. E. Laue told the Board that all neighbors were in favor of granting the variance. She reviewed one piece of negative feedback from the neighbors, which was a request for no roosters. She noted that they do not want to have roosters or breeding hens. She said that the neighborhood includes Devonshire Lane, Baldwin Lane, etc. and there are some neighbors with two acres who in fact have chickens. She said that this would not change the character of the neighborhood. She reviewed the chicken coop with the Board in her packet. She explained that she used the town's GIS system to map out how far away the chicken coop and the closet abutter at 16 Lancaster Drive would be, stating it is 142 feet. She said that most people worry about sounds and smells with chickens. She pointed out that chicken's cluck at a decibel level that is equivalent to human conversation. She mentioned that best management techniques for keeping a chicken flock are also the best strategy for keeping the odor down. She said that keeping any odor under control will help keep the flock healthy. She commented that the pandemic has changed the way people think about food supply, and the chickens would help with this. She told the Board that a flock of 10 hens in the winter would produce approximately 18 eggs and, in the summer, they would produce 80 eggs, which she would distribute to her neighbors if they would like them. She stated that she tried to research what effect if any chickens have on property values, but there truly is no valid research that she could find. She said that as of 2015, 93% of major cities allow residents to have chickens on their property. She noted that in Colorado, they limit the flock size versus acreage.

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 the request is for a personal flock, not for commercial use, on a cul-de-sac on a dead-end road. She noted the chicken coop would be located behind the house, so the chickens will not be free range.
- (2) The spirit of the ordinance is observed: because there will be no nuisance or hazard to the comfort of the neighbors nearby.
- (3) Substantial justice is done: because the loss to the applicant would outweigh any gain to the general public.
- (4) Values of surrounding properties are not diminished: because the property would not be adversely affected.

- (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 they are located on the end of a cul-de-sac on a dead-end road. She said that she has open space, from Century Village, with a walking path and woods. She noted that extending the property line to the pond is an additional acre, so it would function like a two-acre property. The proposed use is a reasonable one.

Vice Chair Benard asked for questions from the Board. M. Feig asked for the acreage. E. Laue said she has 1.03 acres.

Vice Chair Benard asked for public input. J. Tirabassi read four letters (Exhibit A) into the record as well as a letter (Exhibit B) from a real estate agent regarding property values.

Deb Paul, 118 Hardy Road, addressed the Board in favor of granting the variance. D. Paul said that she has a lot with a little over two acres and has chickens. She noted that the chickens keep the ticks under control. She said that the droppings are the best fertilizer for the lawn.

Vice Chair Benard brought the discussion back to the Board as there was no further public input. J. Benard asked if all the other surrounding properties have two acres. L. Gandia replied that surrounding property sizes vary but are approximately one acre in size. E. Laue clarified that there is a two-acre parcel on Baldwin Road and Cortland Road, not Lancaster Drive. M. Feig asked about the impact of the small water way with the chickens. B. Anderson replied that he did not have any knowledge of that. E. Laue said that they did some research about this, but did not go before the Conservation Commission. She said that chicken droppings are made up of high amounts of nitrogen, potassium and phosphorus and if you do not compost it properly, it will become a problem. She reviewed how they will handle the droppings with the Board. She told the Board that her soil is in question as her portion of Lancaster Drive has been contaminated from Apple Tree Mall, therefore, they used raised beds for their gardens, as they are not sure if it is safe to eat the vegetables from the ground given the water issues. J. Benard reviewed with the Board that the variance will stay with the property forever, regardless of who the property owner might be. M. Feig asked why two acres was chosen for the acreage to have chickens. J. Benard responded that the Board has to follow what is written in the ordinance, but could raise concerns or issues to be looked at.

The Board closed public input and began deliberation:

- (1) The variance would not be contrary to the public interest: because the addition of 10 chickens would not alter the essential character of the neighborhood.
- (2) The spirit of the ordinance would be observed: because the specific location of this property would not threaten the health, safety or welfare of the general public.
- (3) Substantial justice would be done: because the loss to the applicant would outweigh the gain to the public. It would allow the property owner to utilize their property in full effect.
- (4) Values of the surrounding properties would not be diminished: because there is no evidence that chickens would adversely affect the property values.

(5) There is no 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 location at the end of a cul-de-sac on a dead-end street that abuts the open space from Century Village. The proposed use is a reasonable one.

J. Tirabassi made a motion in CASE NO. 07/15/2020-2 to grant the request for a variance from LZO 4.2.1.4A to allow 10 chickens on a lot less than two acres, 18 Lancaster Drive, Map 7 Lot 51-29, Zoned AR-1, Erica Laue & Nicholas Thrasher (Owners & Applicants) with the following conditions:

- 1. The owner shall have no more than 10 chickens.**
- 2. There shall be no roosters.**

M. Feig seconded the motion.

The motion was granted, 3-1-0. The applicant's request for the variance was granted.

B. CASE NO. 07/15/2020-3: Request for a variance from LZO 5.14 to allow a six-foot fence to encroach 38.7 feet into the front 40-foot setback where only fences four feet in height are allowed, Two Grist Mill Hollow, Map 18 Lot 13-10, Zoned AR-1, Douglas & Robin Perry (Owners & Applicants)

J. Tirabassi read the case into the record noting no previous zoning cases. Douglas Perry, Two Grist Mill Hollow, addressed the Board. D. Perry reviewed pictures with the Board. He noted that Brad Anderson, Code Enforcement Officer, wrote a letter regarding sight distance.

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 fence is not going to obstruct anything for safety concerns.
- (2) The spirit of the ordinance is observed: because it will not obstruct safety.
- (3) Substantial justice is done: because the fence will provide privacy to the homeowner.
- (4) Values of surrounding properties are not diminished: because the essential character of the neighborhood is not altered.
- (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 has a unique location as it is a corner lot and has two front setbacks. The proposed use is a reasonable one.

Vice Chair Benard asked for questions from the Board. M. Feig asked if the applicant would have built a six-foot fence if he knew the ordinance would not allow this. D. Perry replied that he would have applied for a variance before building the fence. J. Benard asked for the distance from where the fence is now to where the fence could potentially be moved back, as she thought there was room for the applicant to

do this. D. Perry answered that he thought he could move the fence in about two sections, which would be about 15 feet. J. Benard asked who installed the fence. D. Perry stated that he had a professional company install the fence. He explained that he did come before the Building Department for a permit for the pool, as he was putting it in at the same time as the fence, but did not know the corner lot had two front setbacks to comply with. He commented that he received a letter from code enforcement about the fence after it was built. J. Tirabassi reviewed the pictures with the applicant.

Vice Chair Benard asked for public input. J. Tirabassi read a letter (Exhibit C) from Brad Anderson, Code Enforcement into the record. He read a letter (Exhibit D) in favor of granting the variance from an abutter.

The Board began its deliberation. J. Benard mentioned that the applicant can move the fence further back into the setback or lower the fence to four feet. J. Tirabassi commented that he did not believe the applicant could move it back much farther. M. Feig pointed out that when he drove by the house, the fence stood out, and did not seem to fit into the character of the neighborhood. J. Benard and B. O'Brien agreed.

The Board closed public input and began its deliberation:

- (1) The variance would be contrary to the public interest: because it would alter the essential character of the neighborhood.
- (2) The spirit of the ordinance would not be observed: because it would alter the essential character of the neighborhood.
- (3) Substantial justice would not be done: because the loss to the public would outweigh any gain to the applicant.
- (4) Values of the surrounding properties would not be diminished: as there was no evidence that the property values would be adversely affected.
- (5) There is 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 there was nothing presented that demonstrated the property was unique or that the property could not be used in conformity with the ordinance. The proposed use is not a reasonable one.

J. Tirabassi made a motion in CASE NO. 07/15/2020-3 to deny the request for a variance from LZO 5.14 to allow a six-foot fence to encroach 38.7 feet to the front 40-foot setback where only fences four feet in height are allowed, Two Grist Mill Hollow, Map 18 Lot 13-10, Zoned AR-1, Douglas & Robin Perry (Owners & Applicants)

B. O'Brien seconded the motion.

The motion was granted, 4-0-0. The applicant's request for a variance was DENIED.

II. Other business: none

Adjournment:

J. Tirabassi made a motion to adjourn at 8: 16 p.m.

M. Feig seconded the motion.

The motion was granted, 4-0-0. The meeting adjourned at 8: 16 p.m.

RESPECTFULLY SUBMITTED,

CLERK

TYPED AND TRANSCRIBED BY Beth Morrison, Recording Secretary.

APPROVED (X) WITH A MOTION MADE BY J. Tirabassi, SECONDED BY J. Bernard, 3-0-2.

LETTERS

June 3, 2020

Ex. A (four pages)

Hi neighbor,

Thank you so much for being willing to write a note to the Zoning Board of Adjustments for our chicken variance request! The Board will invite you to come to the meeting on July 15th to hear our request, but we wanted to give you a chance to share your opinion with them in case you don't want to attend or are unable to. Please fill this out, feel free to add any remarks, and drop it back off in our mailbox. We have to submit all paperwork by 5 PM on Tuesday, June 16, so if you can please have it to us before Friday the 12th we would appreciate it!

Thank you again!

Erica Laue and Nick Thrasher
18 Lancaster Drive

1. Name:

Elizabeth Paul

2. Address:

19 LANCASTER DR
WINDONDERLY NH

3. Do you support our request to keep a flock of 10 chickens in our backyard? YES

4. Do you have any concerns about the safety, health, or character of our neighborhood if chickens are kept here? If yes, please describe:

NO

5. Do you think that chickens in our neighborhood could be a positive thing? If yes, please describe:

Yes, great for our environment

June 3, 2020

Hi neighbor,

Thank you so much for being willing to write a note to the Zoning Board of Adjustments for our chicken variance request! The Board will invite you to come to the meeting on July 15th to hear our request, but we wanted to give you a chance to share your opinion with them in case you don't want to attend or are unable to. Please fill this out, feel free to add any remarks, and drop it back off in our mailbox. We have to submit all paperwork by 5 PM on Tuesday, June 16, so if you can please have it to us before Friday the 12th we would appreciate it!

Thank you again!

Erica Laue and Nick Thrasher
18 Lancaster Drive

1. Name:

Ray & Linda Rioux

2. Address:

17 Lancaster Dr. Londonderry NH.
03053

3. Do you support our request to keep a flock of 10 chickens in our backyard? Yes

4. Do you have any concerns about the safety, health, or character of our neighborhood if chickens are kept here? If yes, please describe:

5. Do you think that chickens in our neighborhood could be a positive thing? If yes, please describe:

Had chickens growing up, never
was a problem. Great thing for kids

See other →

June 3, 2020

Hi neighbor,

Thank you so much for being willing to write a note to the Zoning Board of Adjustments for our chicken variance request! The Board will invite you to come to the meeting on July 15th to hear our request, but we wanted to give you a chance to share your opinion with them in case you don't want to attend or are unable to. Please fill this out, feel free to add any remarks, and drop it back off in our mailbox. We have to submit all paperwork by 5 PM on Tuesday, June 16, so if you can please have it to us before Friday the 12th we would appreciate it!

Thank you again!

Erica Laue and Nick Thrasher

18 Lancaster Drive

1. Name:

E. JAMES JONES (Jim)

2. Address:

21 LANCASTER DR. LONDONDERRY
603-434-0680

3. Do you support our request to keep a flock of 10 chickens in our backyard? YES (EXCEPT ROOSTERS)

4. Do you have any concerns about the safety, health, or character of our neighborhood if chickens are kept here? If yes, please describe:

5. Do you think that chickens in our neighborhood could be a positive thing? If yes, please describe:

see other →

June 3, 2020

Hi neighbor,

Thank you so much for being willing to write a note to the Zoning Board of Adjustments for our chicken variance request! The Board will invite you to come to the meeting on July 15th to hear our request, but we wanted to give you a chance to share your opinion with them in case you don't want to attend or are unable to. Please fill this out, feel free to add any remarks, and drop it back off in our mailbox. We have to submit all paperwork by 5 PM on Tuesday, June 16, so if you can please have it to us before Friday the 12th we would appreciate it!

Thank you again!

Erica Laue and Nick Thrasher
18 Lancaster Drive

1. Name: Cindy Benson
2. Address: 16 Lancaster Drive
3. Do you support our request to keep a flock of 10 chickens in our backyard? Yes.
4. Do you have any concerns about the safety, health, or character of our neighborhood if chickens are kept here? If yes, please describe: No, I don't. I assume they'll be kept in a chicken coop for the most part.
5. Do you think that chickens in our neighborhood could be a positive thing? If yes, please describe: Yes, there might possibly be access to fresh eggs.
6. Is there anything else you would like the Zoning Board of Adjustments to know about our request? No.

Thank you!

EX B



Erica Laue <ericalarue@gmail.com>

Property values and chickens

Betty Wright <bettywrightnh@gmail.com>
To: Erica Laue <ericalarue@gmail.com>

Fri, Jun 5, 2020 at 9:47 AM

Hi Erica,

I'm so sorry it took a week to respond. This new normal is crazy. I chatted with a co-worked for her opinion, too, and her thought was the same. As I'm not an appraiser I can only give you my REALTOR thoughts on chickens as neighbors. In your neighborhood and with the size of your property, I'm thinking that your new family members wouldn't have much of an impact of the value of the homes next door. They are technically only a temporary addition, not like a permanent structure. We actually have a flock at one of the homes on my street, one on a smaller lot than yours, and I've noticed the family has added a wired fence to keep them in their yard. A couple of times I saw the lady bribing her flock to follow her home from the neighbor's yard by dropping food behind her as she walked. Although it was cute to watch she must of tired of that routine as the fence appeared!

I'm so glad that you are happy with your home and all is well for you. It doesn't seem like a year has gone by already!
Betty

Betty-Ann Wright
Associate Broker, NH & MA
Coco, Early & Associates
Cell: 603-489-3621
15 Garden Road, Plaistow, NH 03865
www.BettyAnnWright.com

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Exc



TOWN OF LONDONDERRY
Building, Health & Zoning Enforcement

268 Mammoth Road
Londonderry, New Hampshire 03053
432-1100 ext. 115 Fax: 432-1128

MEMORANDUM

To: Zoning Board of Administration
From: Bradley Anderson Code Enforcement Officer
Date: May 19, 2020
Subject: Sight impediment, 2 Grist Mill Hollow M&L 18-13-10

I don't believe there is any sight impediment with the existing six-foot-high fence, given the physical view when I visited and the GIS mapping service that I used.

Brad Anderson
Code Enforcement Officer
268 Mammoth Road
Londonderry, NH 03053
(603) 432-1100 ext.108

Ex.D

6/12/2020

From: Kevin Dionne

4 Grist Mill Hollow, Londonderry, NH 03053

To: Town Inspector

Londonderry, NH

Re: Fence Height @ 2 Grist Mill Hollow

To whom it may concern:


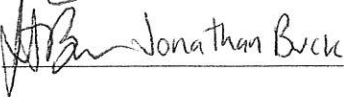

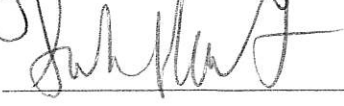
I'm writing today on behalf of my neighbor Douglas Perry at 2 Grist Mill Hollow. He made me aware that the Town of Londonderry has concerns about the size and location of his fence facing Manter Mill Rd.

I understand that towns must have restrictions and requirements regarding fencing for visual and safety purposes. It is in my opinion that Mr. Perry's fence serves both as an aesthetically pleasing safety barrier for his yard and pool, along with providing privacy from the street. Forcing Mr. Perry to lower his fence on the Manter Mill Rd would present more of a safety concern as well as change the private nature of our neighborhood.

Remember, Fences make good neighbors.

Sincerely,


Kevin Dionne
4 Grist Mill Hollow

Neighbor: 	Address: 38 Manter Mill Rd, Londonderry
Neighbor:  Jonathan Buck	Address: 3 Grist Mill Hollow HOA President
Neighbor: 	Address: 39 Manter Mill Rd Londonderry
Neighbor: 	Address: 40 Manter Mill, Londonderry