

**LITTLETON ZONING BOARD OF ADJUSTMENT
LITTLETON COMMUNITY CENTER
120 MAIN STREET
LITTLETON, NH 03561
TUESDAY, FEBRUARY 13, 2024
6:00 PM
DRAFT**

PRESENT: Chair Mark Wright, Vice Chair Zack Hawkins, Courtney Bowler, Ken Lavine, Joe DePalma IV (alternate), David Fiandaca (alternate), and Joanna Ray (recording secretary)

ABSENT: Jordan Montgomery and Lindsay Richardson (alternate)

OTHERS: Aaran Cunningham, Robert H. Cunningham, Jeanne Burdette, Rob Ellingwood, and Julie Ellingwood

Chair Wright called the meeting to order at 6:00pm, introduced the Board members, and explained the hearing process to the applicants. Board member Jordan was absent. J. DePalma was designated a voting member for tonight. Since the cases are related, Chair Wright suggested hearing both applications before deliberating. All Board members agreed.

Burdette Partridge Lake Irrevocable Trust – ZBA24-02 – Request for a Variance related to Article V, Section 5.01, of the Littleton Zoning Ordinance to allow a non-conforming lot size at 531 Old Partridge Lake Road, map 53 lot 23, in the R-2 zone. Chair Wright read the case to be presented. Jeanne Burdette, applicant, read her application into the record.

- Public interest - The exchange in the area amounts to only .16 acres.
- Spirit of the ordinance - The lots pre-existed the zoning ordinance and are already substandard in area.
- Substantial justice - The terrain of the land makes it more reasonable for the .16 acres to be included in tax map 53-22.
- Property values - The lots have the same combined area and will not affect the value of the surrounding properties.
- No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because the lots are similar in size to the surrounding properties.
- The proposed use is a reasonable one because the uses of these properties will not change.
- Hardship – May lot 53-23 is directly across the street from the Burdette camp at 528 Old Partridge Lake Road. We had been looking at the old rundown camp across the street for over 30 years. Jeanne and her husband Paul proposed to purchase the property from the Byron's in 2020 but David Byron refused to sell. Paul passed away on April 8, 2022 and David Byron passed away on November 15, 2022. In January of 2023, Diana Byron asked J. Burdette if she wanted to purchase the property so that Diana could pay her taxes. J. Burdette purchased map 53 lot 23 on February 27, 2023 and paid to have the old camp tested for hazardous materials and then had the building torn down on June 7, 2023. She did all of this to help her neighbor and to honor her late husband's dream of owning and maintaining the property across the street. She has since planted grass and a tree in his memory. Her hardship is that she would like to recoup some of her money by selling a small portion of this property to Robert and Aaran Cunningham. She would also like to emphasize the fact that the terrain of the land makes it more reasonable for the .16 acres to be included in tax map 53-22.

Vice Chair Hawkins asked where the septic was located. A. Cunningham replied that lot 22 has the leach field for lot 17.

J. Burdette added that the terrain is flat where the camp was but slopes towards the Cunningham's before getting flat again. She feels it makes sense for the .16 being part of their lot.

Vice Chair Hawkins asked if the required site assessment was done before buying lot 23. J. Burdette replied no.

C. Bowler mentioned some differences between the town maps and the proposed lot line adjustment by Gardner Kellogg. J. Ray clarified that G. Kellogg stated there is an error with the town maps.

Chair Wright explained that the Planning Board issued a conditional approval of the lot line adjustment. These lots lost their grandfathered status with the adjustment. He asked about the slope and J. Burdette confirmed that it has always been there. Chair Wright explained that the cost issue is personal and not a hardship of the property. There should be a focus on how the property is unique.

There were no questions or comments from members of the public. K. Lavine made a motion to table this case and discuss the next one. Vice Chair Hawkins seconded the motion. The motion passed by all.

Robert H. Cunningham IV, & Aaran E. Cunningham – ZBA24-01 – Request for a Variance related to Article V, Section 5.01, of the Littleton Zoning Ordinance to allow a non-conforming lot size at 547 Old Partridge Lake Road, map 53 lot 22, in the R-2 zone. Chair Wright read the case to be presented. Aaran Cunningham read the application into the record.

- Public interest – There will be no additional lots and the exchange in area amounts to .16 acres.
- Spirit of the ordinance – The lots pre-existed the zoning ordinance and are already substandard in area.
- Substantial justice – The terrain of the land makes it more reasonable for the .16 acres to be included with tax map 53-22.
- Property values – The lots will have the same combined area and will not affect the value of the surrounding properties.
- No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because the lots are similar in size to the surrounding properties.
- The proposed use is a reasonable one because the uses of these properties will not change.
- Hardship – Currently, this parcel serves as the septic disposal for both Cunningham and Ellingwood dwellings. If the septic system fails, having the additional land would allow enough acreage to hold another septic system. See in-depth letter stating such hardship reasonings by Gardner Kellogg. Originally, the hardship by not being granted this variance was because of lack of storage. If the Cunningham's were to move here permanently, a structure would be needed to house their belongings as little storage currently exists at 548 Old Partridge Lake Road.

A. Cunningham stated that 547 has the leach field and that they've put in a shed. A fence was installed to protect the leach field.

There were no questions or comments from members of the public.

Vice Chair Hawkins asked if Gardner Kellogg designed a septic system. A. Cunningham replied no and added that the system has not failed.

C. Bowler asked if two dwellings use the septic. A. Cunningham replied yes. C. Bowler asked if the use of the property would not change except for the possibility of a garage. A. Cunningham replied that was correct and showed the Board where the septic is located.

D. Fiandaca asked who shares the septic. A. Cunningham stated the Cunningham's and Ellingwood's located at 558 Old Partridge Lake Road.

C. Bowler made a motion to go into deliberations. J. DePalma seconded the motion. The motion passed by all.

Vice Chair Hawkins noted that none of the lots in this area comply with the 2-acre minimum and that it is not impossible to replace the septic system with the current lot sizes. He also stated there is no hardship and that the proposed is more for convenience. Granting this variance would set a precedence. C. Bowler,

K. Lavine, and J. DePalma agreed. Chair Wright also agreed with his comments and noted that the Board can only deviate from the Zoning Ordinance if the criteria have been met.

C. Bowler made a motion to come out of deliberations. K. Lavine seconded the motion. The motion passed by all.

Vice Chair Hawkins made a motion to vote on case ZBA24-01. K. Lavine seconded the motion.

- J. DePalma voted to deny the application because the hardship criteria was not met.
- K. Lavine voted to deny the application because the hardship criteria was not met.
- C. Bowler voted to deny the application because the hardship criteria was not met.
- Vice Chair Hawkins voted to deny the application because the hardship criteria was not met.
- Chair Wright voted to deny the application because the hardship criteria was not met.

C. Bowler made a motion to open case ZBA24-02 and vote. J. DePalma seconded the motion.

- J. DePalma voted to deny the application because the hardship criteria was not met.
- K. Lavine voted to deny the application because the hardship criteria was not met.
- C. Bowler voted to deny the application because the hardship criteria was not met.
- Vice Chair Hawkins voted to deny the application because the hardship criteria was not met.
- Chair Wright voted to deny the application because the hardship criteria was not met.

The applicants were informed of the 30-day appeal period.

C. Bowler made a motion to approve the minutes from January 9, 2024 as presented. J. DePalma seconded the motion. The motion passed by all.

The next Zoning Board meeting is scheduled for February 27, 2024.

The Board discussed changing the scheduled hearing dates. Currently, the bylaws state the ZBA shall meet on the second and fourth Tuesday of the month. After discussing the timeline to notice a hearing, the Board agreed to amend the bylaws, Article V, Section 1, to state the Board will meet the fourth Tuesday of the month. Per Article X, Section 1, the Board will officially vote on the amendment at their February 27, 2024 meeting.

At 7:00, Vice Chair Hawkins made a motion to adjourn. C. Bowler seconded the motion. The motion passed by all.

Submitted by,
Joanna Ray