

Board of Appeals
March 31, 2021

Members Present:

David Coleman- Chairman
Steve McLean
Brad Libby
Roland LePage, Jr. (Sonny)
Howard Burnham

Public in attendance:

Andre Desvergnés

David Coleman: Good evening and welcome to the Limerick Zoning Board of Appeals meeting of March 31, 2021. Before we get started with anything I'm going to skip ahead to the election of officers. Steve McLean **nominated** Dave Coleman for Chairman. Howard Burnham **second**. Motion passed 4-1 (Coleman abstained). Mr. Coleman: And nominations for Vice Chairman. Howard Burnham **nominated** Steve. Brad Libby **second**. Motion passed 4-1 (Steve McLean abstained).

Mr. Coleman: Alright. With that we'll move on. Tonight we have a, the Limerick Zoning Board of Appeals will hold a hearing Wednesday, March 31 starting at 6PM with a site walk located at map 44 lot 15 Cozy Circle. This will be followed by a hearing at 7PM at the Limerick Brick Town Hall. The Board will review an application for a hardship variance for the Limerick Zoning Board of Appeals by Andre Desvergnés in reference to the Limerick Code Enforcement Officer's denial of a permit dated February 5, 2021. The status of this structure does not meet the required 100 foot setback per Town of Limerick Shoreland Zoning Ordinance map 16 lot 67. We've been out to the site, everybody was in attendance I believe other than Mr. Libby and I'll let you speak. Brad Libby: Because of a past business relationship and potential future business relationship with Mr. Desvergnés I feel it's inappropriate for me to anticipate in this so I recuse myself. Mr. Coleman: Brad Libby is asking to recuse himself does the Board wish to do that? Steve McLean **motioned** to accept his recusal. Howard Burnham **second**. Motion passed 4-1 (Brad Libby abstained). Mr. Coleman: In defining the quorum we do still have a quorum with four members. Conflict of Interest has been identified with Mr. Libby. Under timeliness of appeal the date of the permit denial was February 5th and I received via email Mr. Desvergnés' application on March 1st. Steve McLean **motioned** to accept the application. Roland LePage Jr (Sonny) **second**. Motion passed 4-1 (Brad Libby abstained). Mr. Coleman: Under jurisdiction, the Zoning Board of Appeals has jurisdiction through the Limerick Shoreland Zoning Ordinance article 16 section H paragraph 2 and also under article X section E paragraph 1 and section F and there are also

provisions in DEP Shoreland Zoning Ordinance chapter 1000. Steve McLean **motioned** that we have jurisdiction to hear the appeal. Howard Burnham **second**. Motion passed 4-1 (Brad Libby abstained). Mr. Coleman: Standing, does the applicant have standing? Mr. Desvergnés if you want to come up here you are the owner of that lot. Andre Desvergnés: Sorry I didn't get the question. Mr. Coleman: Yeah I'll just have you stand there. Steve McLean **motioned** that he has standing. Roland LePage Jr. **second**. Motion passed 4-1 (Brad Libby abstained). Mr. Coleman: We have your completed application I need to work with you on getting the check for the fee. Mr. Desvergnés: Okay. Mr. Coleman: I explained that that was the \$250 we talked about that afternoon. And then I'll just have you briefly explain the case to us. You applied for a permit it was denied based on the setback. Mr. Desvergnés: Based on the 100 foot setbacks. Saco River and zoning put me in a spot for 87 feet from that. I meet the setback from the town 25 foot back. So I'm asking to promote the 87 feet it's what I'm petitioning. Mr. Coleman: And really based on what we saw, if you were to move to the left or the right that figure wouldn't change at all. Mr. Desvergnés: And I've had surveys there and Kenny Gardner. We all kind of took the best scenario where we can go and it is the only spot. Steve McLean: It was also sold to you as a buildable lot. Mr. Desvergnés: Correct. Mr. McLean: As a combination of a bunch of peices put into one to make it a buildable lot. Mr. Desvergnés: Correct. Mr. Coleman: Any other questions from the Board? I did speak with the Code Enforcement Officer today. He couldn't be here tonight. Mike Gilpatrick was Code Enforcement Officer at the time I spoke with him and he said that he felt that this is a good instance where a hardship variance should be granted. That he had to deny the appeal based on the fact that it was within the 100 feet. I submitted the package that I showed all of you that Mr. Desvergnés had given to Code Enforcement that has the ATT200 and all of the Saco River Corridor as well as his application to us. I sent that to the DEP for their review and they did not respond. So they evidently do not have any issues with what was presented to them either. Steve McLean **motioned** that we grant hardship variance for the 87 foot setback. Howard Burnham **second**. Motion passed 4-1 (Brad Libby abstained). Mr. Coleman: I guess that pretty much says it. What will happen is we'll write up a Finding of Facts and Notice of Decision and get that to you within I believe it's 7 days I got to get it done but I should be able to write it up Friday tomorrow might be a little soon. Mr. McLean: As long as you get us a check. Mr. Coleman: Yep and that's it. I'll trade you for a check for \$250 for your decision. I'll call you on Friday when I have that. I'll probably be down at the office with Courtney and print it and whatnot. Mr. Desvergnés: I can pay now too. Mr. Coleman: Yeah that'd be great. I'll have that Notice of Decision should be done Friday morning, Friday afternoon. Mr. Desvergnés: Thank you. Have a good night. Mr. Coleman: So on the agenda we had minutes from 2/10 that was our February meeting for the Zarthur appeal. Did everybody have a chance to review the minutes. Mr. McLean: Yeah I did. They looked alright. Steve McLean **motioned** to approve the minutes for the 2/10/2021 meeting. Brad Libby **second**. Motion passed 5-0. Mr. Coleman: We have Courtney's time card for the minutes of the meeting and that comes to \$24. Steve McLean **motioned** that we pay Courtney for her time. Brad Libby **second**. Motion passed 5-0. Mr. McLean: One last thing that I have we ought to talk to Mike Gilpatrick because on that Zarthur decision he still has to get the variance cause they're pushing it back but still in the right of way so he still needs a variance for that part of it. Mr. Coleman: We've signed his Notice of Decision for denying his appeal but during the hearing he had spoken with us and Mike spoke with him and I'd said that he would work it out with him on where he could move that back to.

Howard Burnham: What is he talking about? Mr. McLean: The little shed down on Sokokis. So they're moving it back which we're all alright with but it's still part of the right-of-way so he has a variance for that. Roland LePage Jr.: One of the other problems is we don't know what the right-of-way is. Mr. McLean: Right. Like Mike said the best scenario is moving it back but no matter what it's still part of it, it's still in it. Mr. Libby: Well what is the right-of-way? Mr. McLean: With all the people and Mike knew that I'm just saying before it goes beyond and somebody bricked it up and says well he never got a variance. Mr. Burnham made a comment that could not be heard. Mr. McLean: Then everybody's going to be there right to go over it. It's a mishmash. Mr. LePage: Maybe I don't know that. Mr. Coleman: Yep I can reach out to Mike. Mr. McLean: So we have something so it doesn't come back to us. Mr. McLean: The Farrand thing did you have any update? Mr. Coleman: There is no update on Farrand. I have not heard from them. I assume it's still waiting on a date in court.

Steve McLean **motioned** to adjourn. Howard Burnham **second**. Motion passed 5-0.

Respectfully submitted

Courtney Davis