

APPROVED

**ZONING BOARD OF ADJUSTMENT
PUBLIC HEARING
Wednesday July 5, 2023 – 6:00PM
Lincoln Town Hall, 148 Main Street, Lincoln NH**

*Hybrid meeting available both in person with social distancing & via Zoom Meeting Platform to allow for town wide participation. A quorum of the Zoning Board member must be physically present at the meeting. Although there is space in the large conference room for 8-12 guests in addition to the Board members with social distancing, the public is encouraged to participate remotely using ZOOM.

Join Zoom Meeting

<https://us02web.zoom.us/j/81700766161?pwd=WUFKR2N1Zk9xSzI1bVFPRWVzbyt4UT09>

Meeting ID: 817 0076 6161

Passcode: 179696

Find your local number: <https://us02web.zoom.us/j/81700766161?pwd=WUFKR2N1Zk9xSzI1bVFPRWVzbyt4UT09>

Or dial by your location 1-929-205-6099 US (New York)

(See also town website www.lincolnnh.org for same link, meeting ID and passcode.)

I. CALL TO ORDER: Acting Chairman Jack Daly

Motion to appoint Jack Daly as Acting Chairperson for tonight's meeting by Member Sullivan

Second by Acting Member Chenard

All in favor

Members Present: Acting Chairman Jack Daly, Chairman Ray D'Amante (via Zoom), Member Delia Sullivan, Alternate Susan Chenard (Voting Member in place of Vice Chairman Mark Ehrman)

Excused: Vice Chairman Mark Ehrman, Member Myles Moran, Alternate Jon Ham

Staff present: Planner Carole Bont

Guests Present:

- **John Gould**, Resident, (APPELLANT), 5 Eagle Cliff Road, PO Box 325, Lincoln, NH 03251-0325 & co-owner with Mary S. Gould of 5 Eagle Cliff Road (Map 107, Lot 058)
- **Mary S. Gould**, Resident, (APPELLANT), 5 Eagle Cliff Road, PO Box 325, Lincoln, NH 03251-0325 & co-owner with Mary S. Gould of 5 Eagle Cliff Road (Map 107, Lot 058)
- **Mary E. Pieroni**, Resident, (ABUTTER), 27 Liberty Road (Lincoln, NH 03251 & co-owner with Louis A. Pieroni of 27 Liberty Road (Map 107, Lot 064) (via Zoom).

Planner Bont left to check to see if she had received any recent emails pertaining to whether Jon Ham is intending to attend the meeting of the ZBA. Bont returned. Ham intends to come only if we absolutely need him. She asked Jack Daly if he would be willing to act as Chair.

Member Daly said, they have the required in-person quorum of three (3) and a total quorum of four (4), including Ray D'Amante who is the Chair but is attending via Zoom.

Chair D'Amante indicated that it is difficult to act as chair via Zoom and asked Member Daly to act as chair.

Member Daly said as long as the Appellants are fine with only having four (4) members instead of the full board of (5) he would be willing to go ahead. Appellants had no objection.

Planner Bont said Member Myles Moran said he could come over if we needed him, however, he is supposed to be working tonight and would have to close up his Conehead's Ice Cream shop in order to come over.

Motion to have Jack Daly act as Chair Pro Tem for this ZBA hearing by Delia Sullivan.

Seconded by D'Amante

All in favor

[Alternate Susan Chenard was presumed to be appointed as Acting Member in lieu of excused member Mark Ehrman.]

II. CONSIDERATION of meeting minutes from:

- March 15, 2023 (Present: Chair Ray D'Amante (via Zoom), Acting Chair Jon Ham, Vice Chair Mark Ehrman (via Zoom), Member Jack Daly, Member Delia Sullivan, Member Myles Moran, and Alternate Susan Chenard. (Myles Moran dropped off the Zoom early.)

Motion to approve the March 15, 2023 ZBA meeting minutes as distributed by Chair Pro Tem Daly.

Motion to amend minutes as she found a missing word "be" as in "...will be..." by Acting Member Chenard.

At 6:10:05 PM Member Myles Moran arrived to a chorus of: "Where's my ice cream?"

Motion to approve the minutes as amended by Chair Pro Tem Daly.

Seconded by Member Sullivan

All in favor

III. NEW BUSINESS (Staff and Zoning Board Member/Alternates).

A. Request for Variance (Var).

[Var 2023-03 M107 L058 Gould - roofed over cement pad with lift for vehicle detailing & undercoating]

Appellants/Property Owners: John & Mary S. Gould
5 Eagle Cliff Road
PO Box 325
Lincoln, NH 03251-0325

Property: 5 Eagle Cliff Road (Map 107, Lot 058), 0.51 acres, General Use (GU) District.

Land Use Plan Ordinance (LUPO): In General Use (GU) District: front, side & rear setbacks are fifteen feet (15') from property boundary line. Cement pad with vehicle lift & a roof overhead is a "structure". No "structure" is permitted within the setback areas. Entire proposed structure would be within fifteen-foot (15') setback area.

Background: In 1995 prior owner built 2-bay detached garage with a second story loft overhead. In 2005 Mary Gould began to operate a pet grooming service, "Mary's Wash & Wags" out of the loft overhead in the garage; pet grooming business continues to operate.

For approximately 15 years John Gould has been operating a “side business” or “home business” vehicle detailing & undercoating, using 2-bay garage underneath pet grooming business for detailing & grassy area beside garage for undercoating vehicles. Undercoating has to be done in open air. Gould has been using vehicle jacks under vehicles on the grassy area beside the garage to do the undercoating of vehicles, but that is not as safe as performing the same task with jacks or lift on a firm surface like a cement pad.

Gould wants to do car detailing & undercoating full time. On May 10, 2023, Planning Board (PB) determined that with expansion, Gould’s business would still be considered a “home business” & no Site Plan Review approval is required. PB recommended Gould request a Variance for the roofed over cement pad with lift because it is “structure” within the front setback area. Garage is located two feet (2’) over the fifteen-foot (15’) side setback line. The proposed cement pad & roof would be fully within the 15-foot west front setback area of the subject lot & come within approximately five feet (5’) of the property boundary line.

Request: ZBA to grant Variance to allow the construction of cement pad, lift & shed roof within 15-foot front setback area as defined for the **General Use (GU) District**.

ACTIONS: Upon a finding by the ZBA that the application meets the submission requirements the ZBA may vote to accept the application for a Special Exceptions and Variances as administratively complete. The ZBA may conduct a public hearing, or schedule a public hearing at some future date established during this meeting. The ZBA will hold a public hearing on the merits. The Zoning Board will vote to approve, approve with conditions or disapprove the application.

SUMMARY

Chair *Pro Tem* Daly summarized the Goulds’ initial request for a variance to put in a cement pad and a lift.

Chair D’Amante pointed out that the Goulds were currently asking for more than what was on their initial application.

Planner Bont said that even though the Gould’s initial application for just for the cement pad and the lift, when the Goulds later met with the Planning Board, the Planning Board recommended that the Goulds ask the ZBA for everything they expected to need for their project, even though the Goulds intend to phase these components in over a period of time as their finances allow.

PRESENTATION

Appellant Mary Gould said she and her husband would like to put in a cement pad as part of their long-term existing home business which is undercoating and car detailing. Undercoating cannot be done inside the garage because it is a spray of polyurethane sealant. They need a slab for her husband to be able to safely jack up a car outside and spray the undercoating underneath the car. Eventually, the Goulds want to put a roof over the slab because right now he can only do the undercoating when it is not raining outside. Eventually, under that car port they are going to put a car lift so it will be a lot easier for him to do the undercoating and the detailing. Although the detailing part of the business does not need to have the car jacked up in order to do the work, using a car jack might make it easier for John Gould to do the detailing as well.

Slab Strength Adequate for Weight

Chair D’Amante asked Appellant John Gould about the lift. If you put the lift on a slab as you are proposing, would that slab be strong enough to hold the weight of the car with the lift? John Gould said “yes.” Chair D’Amante asked John Gould to confirm that he had addressed that issue. John Gould said “yes.”

Phasing of Project

Appellant Mary Gould continued that at a later date, when they have enough money, the Goulds would like to put a shed roof over their cement pad. Both the cement pad and that shed roof would be within the fifteen-foot (15') front setback area. The existing garage "is right on the front setback line" [actually two feet (2') over the fifteen-foot (15') front setback line]. The proposed cement pad & roof would be fully within the 15-foot west front setback area of the subject lot & come within approximately three feet (3') to five feet (5') of her property boundary line with her brother Vinnie's property.

[Mary S. Gould's brother "Vinnie" is Vincent A. Ciarleglio who with his wife Louise M. Ciarleglio and daughter Bethany E. Ciarleglio owns 3 Eagle Cliff Road (Map 107, Lot 059) – the closest abutting lot.]

Gould Lot is "Landlocked"

Appellant Mary Gould continued that the Gould property is essentially "landlocked" because their lot does not have direct vehicular access onto a Class V or better road. (See NH RSA 674:41). The Goulds have an easement for driveway access to their lot directly over that same lot owned by her brother Vinnie; the driveway appears to be a shared driveway.

Gould Operation Is Not Near Abutters' House or Structures

Appellant Mary Gould drew the ZBA's attention to her photographs and the printed tax maps with the Google Maps aerial view overlay that were passed out to the ZBA members in their packets. The aerial maps show the location of the Gould driveway access from the southwest corner of the Ciarleglio lot and then diagonally across the lot through to approximately the center of the rear third of her brother's lot at 3 Eagle Cliff Road (Map 107, Lot 059).

Appellant Mary Gould explained that although the proposed Gould shed and cement pad would be very close to the Ciarleglio lot, these structures would be closest to the far northwest corner of the Ciarleglio lot, which is the vacant corner of the Ciarleglio lot least used by the Ciarleglios. The Gould structures would be closest to the far northwest rear corner of the Ciarleglio lot while the Ciarleglio house and other structures are clustered in the eastern half of the lot and concentrated in the southeast front corner of the Ciarleglio lot. The Ciarleglio buildings are clustered on the other side of the driveway away from the Gould structures. This means the Gould car undercoating/ detailing business operation will not be near to anyone else's house or structure.

Appellant Mary Gould took photographs from standing where the carport will be and where the cement pad will be and looking out in all directions – towards the road, towards the woods – to show the ZBA members what they would be able to see from that spot.

Abutters in Favor

1. Ciarleglio, Vincent, Louise & Bethany (by letter). Lot owned by Ciarleglio, Vincent, Louise & Bethany – 3 Eagle Cliff Road (Map 107, Lot 059)

Chair *Pro Tem* Daly said to let the record show that the ZBA does have a letter from the abutters Vincent, Louise and Bethany Ciarleglio at 3 Eagle Cliff Road indicating they are in favor of granting the Gould's application for a Variance.

Planner Bont directed the ZBA's attention to Gould's photographs that show a substantial distance between their various abutters and their proposed operation. The abutter most impacted by granting the requested variance would be on the Ciarleglios who have written the letter in favor of granting the variance. The other abutters are quite a distance from the proposed operation.

2. Mary E. Pieroni (via Zoom). Lot owned by Pieroni, Louis A. & Mary E. – 27 Liberty Road (Map 107, Lot 064)

Mary Pieroni said she lives in the yellow house way at 27 Liberty Road (Map 107, Lot 064) accessible from Eagle Cliff Road in the back. Planner Bont directed the ZBA to ask Mary Pieroni if she had any comments or objections.

Will Roofline Protrude Past Edge of Cement Pad?

Chair *Pro Tem* Daly asked Appellant Gould – he noticed that the sketch of the shed room protruded past the line for the cement pad, but that the text of the request said the roofline of the shed roof would not protrude past the cement pad. Which is it?

Appellant John Gould indicated that the drawing of the shed roof was not to scale and they did not intend to let the edge of the roofline protrude past the edge of the cement pad. The Goulds wanted to show the ZBA what the building would like, but it is not going to look exactly like the sketch provided. They intend the shed roof to be even with the cement slab.

What Will the Height and Pitch of the Roof Be?

Chair *Pro Tem* Daly asked Appellant Gould – What is the pitch of the shed roof going to be? How high up is it going to be? John Gould answered that the shed roof will be probably twenty-feet (20') high up on the side of the garage and then it is probably going to be twelve feet (12') on the other end.

Chair *Pro Tem* Daly asked Appellant Gould – is that roof height going to give you enough room to operate the car lift? The Goulds said yes, the car lift is going to be a four-post basic car lift, not a two-post lift.

Required Depth of Concrete and Type of Concrete?

Member Myles Moran asked Appellant Gould – if the slab would be a “buried slab” (a/k/a “suspended slab”) or if the slab would be a “surface slab” (a/k/a “on ground slab”). (*Hard to decipher what was said here – voices sounded gurgly-y. Did they say, On ground? Suspended? Or a mix of both?*). John Gould said the car lift has four posts so all four posts will be bolted to the slab.

Notes:

SLAB RECOMMENDATIONS FOR 2-POST 4-POST LIFT MODELS

What depth of concrete is needed for installing a car Lift? (Excerpt only)

Here are our tips for making sure your installation is an uplifting experience.

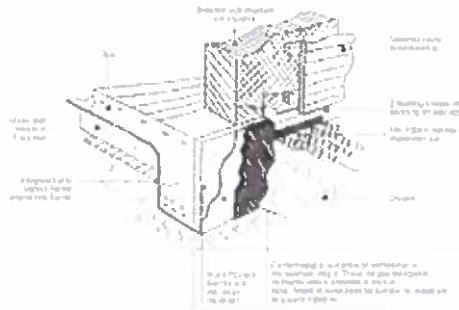
The minimum and recommended thicknesses of concrete slab for car Lifts

Some of manufacturers' standards for a 2-Post and 4-Post Lifts require a minimum 4 inches of reinforced concrete slab to be safely installed.

That's the minimum – however if you're installing a new slab, it's a great idea to plan around a slightly deeper concrete for even better strength – a least 6 inches thickness concrete is our recommendation.

<https://www.automotiveliftexperts.com/concrete-floor-requirements/>

What are the three 3 different types of concrete slabs available?



Concrete slabs can be on ground, suspended, or a mix of both. Concrete slabs need to be appropriately insulated to suit the climate.

<https://www.bendpak.com/car-lifts/concrete-floor-requirements/>

Undercoating & Waste Disposal of Undercoating Chemicals

Delia Sullivan said she had a question about the undercoating. Specifically, she wanted to know about the disposal of waste associated with undercoating of cars.

Is it just going to run out onto the ground? Is it “safe”?

Appellant John Gould said “Everything I use is biodegradable.” He has a breakdown sheet that breaks down all of the ingredient of the undercoating substance he uses. He does not have the sheet with him today.

Appellant Mary Gould said you can look it up on line; it is called “Fluid Film”(?) *(Hard to decipher what was said here – voices sound gurgly-y. I listened to what she said several times and “Fluid Film” might be what she said.)*

Fluid-Film is an annual undercoating that is formulated from specially processed wool-wax, highly refined petroleum oils and selected agents to provide corrosion control, penetration, metal wetting and water displacement. These long-lasting products contain no solvents.

Appellant John Gould said that when he sprays the undercoating on cement, he puts down drop cloths and then the drop cloths just get washed because even though the undercoating material is “oil”, it cleans up with soap and water.

Drains Not Required

Chair *Pro Tem* Daly asked Appellant Gould if any types of drains are needed. Appellant John Gould says “no”.

Safety is Primary Concern

Appellant Mary Gould said her husband John Gould has been spraying undercoating on the cars that are sitting on jacks set up directly on the ground. This has been making her crazy because the jacks that he is using [are not that stable as the jacks] are just sitting on the ground. She has been worried about John’s safety being under the jacked-up cars if a car slips [off the jacks]. She said “We have to change that and make it safer.”

Unique Positive Features of Property and Impacts of Proposed Variance

Chair Ray D'Amante has looked at the property and some of his observations of most positive features "are just obvious":

Good Buffer

1. The site is very well buffered [with trees] from US Route 3/Daniel Webster Highway and Interstate I-93.
2. The site is set back significantly from Eagle Cliff Road.
3. Most of the abutters to the site are [amenable] family members.

Enhanced Architectural Building

Looking at the proposed elevation plan, he believes what is proposed is a very significant architectural improvement over what is there now so once the Goulds are done, he thinks that in addition to having the buffers that they enjoy now, they will also have an enhanced architectural building.

Improvement to the Building

Appellant Mary Gould said "the current garage is kind of sad". The garage has been on that site for about thirty (30) years and they are actually doing a little bit of cosmetic work on the outside of the building as well.

Member Myles Moran said he remembers when that garage was brand-new! Time goes by fast!

Appellant John Gould said their son was five (5) years old when they built the garage [in 1995]. He is (undecipherable) thirty-three (33)???? now.

Business Parking and Traffic Impacts

Appellant Mary Gould asked whether she should address traffic.

Planner Bont said the Planning Board and the ZBA are always interested in whether there will be an increase in traffic if a business is involved.

Appellant Mary Gould said they are still operating a pet grooming business in the garage (Mary's Wash N' Wags). The business is open; her niece is operating the business now. The customer vehicular traffic is in and out. Customers are just dropping off an animal, leaving and then coming back to pick up the animal. With the other business – car detailing and undercoating – when people drop off a car, they are going to put the car in a bay and then leave. The only time the car will be outside will be to wash it down and then the car will go in a bay to be worked on. If any car is going to be undercoated at the end of the process, then the car will be outside after the undercoating. That will be the extent of the traffic congestion in the yard for the two businesses.

Planner Bont said when the Goulds talked to the Planning Board about their intended scope of operation, they were not going to be detailing fifty (50) cars per day. The Goulds can only handle detailing two (2) or three (3) cars per day. Mary Gould said she is trying to get her husband to slow down.

Chair *Pro Tem* Daly asked if anyone else had any questions.

Incorporate Planning Board Minutes from May 10, 2023

Chair D'Amante said that the Planning Board minutes for May 10, 2023, included a lot of detail about the proposed Gould operation. The PB minutes do cover the line of matters that are important to granting variances. Chair D'Amante recommends that the ZBA should just incorporate those PB minutes in the ZBA minutes, "en masse".

Note: On May 10, 2023, Planning Board (PB) determined that with the proposed expansion, Gould's business would still be considered a "home business" & no Site Plan Review approval would be required. PB recommended Gould request a Variance for the roofed over cement pad with lift because it is "structure" within the front setback area. The existing garage is located two feet (2') over the fifteen-foot (15') side setback line. The proposed cement pad & roof would be fully within the 15-foot west front setback area of the subject lot & come within approximately five feet (5') of the property boundary line. They were advised to request a Variance to allow the construction of cement pad, lift & shed roof within 15-foot front setback area as defined for the General Use (GU) District.

Motion to incorporate the May 10, 2023 Planning Board minutes into the July 7, 2023 ZBA minutes altogether by D'Amante.

Seconded by Moran. All in favor (4-0).

ZBA Consideration of Variance Application Criteria

Chair *Pro Tem* Daly said they should go through the list of criteria for granting a Variance, polling the board about each element. He asked Acting Member Chenard to assist by reading the Appellant's facts in support of granting the Variance from the Variance Application:

Criteria #1

Acting Member Chenard read Criteria #1 starting from page 2 of the Variance Application. (See attached Variance Application.)

1. Granting the variance **would not** be contrary to the Public Interest because:

Application Answer: This variance will not alter the essential character of the neighborhood, or threaten the health safety or general welfare of the public. Granting the variance will cause no harm or increase traffic congestion or decrease traffic safety, decrease the tax base or create the potential for sewerage overlading or increase the risk to water quality.

Chair *Pro Tem* Daly said the ZBA has already discussed these matters at great length. He asked if anyone wanted to make a motion to accept the language from the application for facts in support of granting the variance under Criteria #1.

Polling the Board to see if the Board would accept the Appellants' language for [Criteria #1] from the Variance Application Answer.

1. Granting the variance **would not** be contrary to the Public Interest because:

Application Answer: This variance will not alter the essential character of the neighborhood, or threaten the health safety or general welfare of the public. Granting the variance will cause no harm or increase traffic congestion or decrease traffic safety, decrease the tax base or create the potential for sewerage overlading or increase the risk to water quality.

All unanimously in favor. (4-0)

Criteria #2

Chair *Pro Tem* Daly asked ZBA Member Delia Sullivan (who has misplaced her reading glasses), then Acting Member Chenard to read the Appellant's facts in support of granting the Variance from the Variance Application under Criteria #2:

Acting Member Chenard read Criteria #2 from page 2 of the Variance Application. (See attached Variance Application.)

2. If the variance were granted the spirit of the ordinance would be observed because:

Applicant's Answer: It will not create congestion beyond that envisioned in the zoning ordinance and will not threaten wetlands. It will not result in overcrowding. The land that the slab will be next to is an area that is wooded and too small to develop because of being between the State of NH DOT fence and the existing driveway to both properties.

Chair *Pro Tem* Daly asked if the ZBA Members agreed to accept the answer given by the Appellants [on the Variance Application as Facts in Support of Granting the Variance under Criteria #2].

Polling the Board to see if the Board would accept the Appellants' language for [Criteria #2] from the Variance Application Answer.

2. If the variance were granted the spirit of the ordinance would be observed because:

Applicant's Answer: It will not create congestion beyond that envisioned in the zoning ordinance and will not threaten wetlands. It will not result in overcrowding. The land that the slab will be next to is an area that is wooded and too small to develop because of being between the State of NH DOT fence and the existing driveway to both properties.

All unanimously in favor. (4-0)

Abutter Input

Chair *Pro Tem* Daly asked abutter Mary Pieroni (on Zoom) if she would like to say anything about the application. Mary Pieroni said, "No. I'm good." Daly asked Mary Pieroni if she was in favor or against the application. Mary Pieroni said "I'm in favor." Daly thanked Pieroni, "For the record." D'Amante also thanked Pieroni for her input. Daly asked Pieroni for her address. Pieroni said she was at 27 Liberty Road.

ZBA Consideration of Variance Application Criteria CONTINUED...

Criteria #3

Chair *Pro Tem* Daly asked ZBA Member Myles Moran to read the Appellant's facts in support of granting the Variance from the Variance Application under Criteria #3:

ZBA Member Moran read Criteria #3 from page 2 of the Variance Application. (See attached Variance Application.)

3. Granting the variance would do substantial justice because:

Applicant's Answer: Granting this variance will not cause any loss to the individual that is not outweighed by a gain to the public. The proposed development is consistent with the area's present [mixed residential/business] use. The slab will provide a stable and safe platform to use for undercoating vehicles.

Chair *Pro Tem* Daly asked if the ZBA Members agreed to accept the answer given by the Appellants [on the Variance Application as Facts in Support of Granting the Variance under Criteria #3].

Polling the Board to see if the Board would accept the Appellants' language for [Criteria #3] from the Variance Application Answer.

3. Granting the variance would do substantial justice because:

Applicant's Answer: Granting this variance will not cause any loss to the individual that is not outweighed by a gain to the public. The proposed development is consistent with the area's present [mixed residential/business] use. The slab will provide a stable and safe platform to use for undercoating vehicles.

All unanimously in favor. (4-0)

Criteria #4

Chair *Pro Tem* Daly asked ZBA Member Delia Sullivan to read the Appellant's facts in support of granting the Variance from the Variance Application under Criteria #4:

ZBA Member Sullivan read Criteria #4 from page 2 of the Variance Application. (See attached Variance Application.)

4. If the variance were granted, the values of the surrounding properties would not be diminished:

Applicant's Answer: The slab will not be blocking the view of the water, sunset, or sunshine. The slab can't be seen from US R[ou]te 3 due to a significant tree buffer between the property and the US R[ou]te 3 roadway. Also, it will not be blocking any views or access to surrounding properties. ~~The "slab" is not defined as a "structure".~~

Chair *Pro Tem* Daly asked if the ZBA Members agreed to accept the answer given by the Appellants [on the Variance Application as Facts in Support of Granting the Variance under Criteria #4].

Polling the Board to see if the Board would accept the Appellants' language for [Criteria #4] from the Variance Application Answer.

4. If the variance were granted, the values of the surrounding properties would not be diminished:

Applicant's Answer: The slab will not be blocking the view of the water, sunset, or sunshine. The slab can't be seen from US R[ou]te 3 due to a significant tree buffer between the property and the US R[ou]te 3 roadway. Also, it will not be blocking any views or access to surrounding properties. ~~The "slab" is not defined as a "structure".~~

All unanimously in favor. (4-0)

Discussion re: Process

Discussion re: Polling the board versus voting on whether to accept the Appellant's language proffering the facts to each criterion for a variance. Planner Bont said members of the ZBA should be polled on whether the facts proffered by the Appellants to support each criteria meet the elements of those criteria, but then, after reviewing the criteria, the ZBA should vote on whether or not, taken as a whole, the appellants facts support all of the criteria necessary to grant a variance.

Criteria #5

Chair *Pro Tem* Daly asked ZBA Chair Ray D'Amante to read the Appellant's facts in support of granting the Variance from the Variance Application under Criteria #5:

Chair D'Amante did not read Criteria #5 from pages 2-3 of the Variance Application. (See attached Variance Application.)

AND

5. Unnecessary Hardship

A. 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:

- i. 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:**

Applicant's Answer: The hardship will be in that we will not have a stable and safe place to undercoat cars. This specific placement of the slab is the only option on our property. Our lot is small and the rest of our property is swampy and inaccessible from the existing driveway. This location is also the least obtrusive to our neighbors.

AND

ii. The Proposed Use is a reasonable one because:

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:

Applicant's Answer: It will not harm anyone's property value and will not obstruct any scenic views because of being a flat cement slab. No one is in opposition to the installation of the slab. This slab will be a vital part of our new family business.

Chair D'Amante said the circumstances create an unnecessary hardship for the appellants without the variance. The definition of an unnecessary hardship would apply given the site and other conditions regarding the proposed improvements. D'Amante moves that there would be unnecessary hardship and that is why the ZBA would want to approve the variance.

Chair Pro Tem Daly asked Chair D'Amante if he was suggesting that the ZBA accept the Appellants' language for Criteria #5. He was.

Chair Pro Tem Daly read the unnecessary hardship answers.

Polling the Board to see if the Board would accept the Appellants' language for [Criteria #5] from the Variance Application Answer.

AND

5. Unnecessary Hardship

B. 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:

- i. 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:**

Applicant's Answer: The hardship will be in that we will not have a stable and safe place to undercoat cars. This specific placement of the slab is the only option on our property. Our lot is small and the rest of our property is swampy and inaccessible from the existing driveway. This location is also the least obtrusive to our neighbors.

AND

- ii. The Proposed Use is a reasonable one because:**

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:

Applicant's Answer: It will not harm anyone's property value and will not obstruct any scenic views because of being a flat cement slab. No one is in opposition to the installation of the slab. This slab will be a vital part of our new family business.

All unanimously in favor. (4-0)

Motion to approve the variance as presented by Member Myles Moran

Second by Member Sullivan

All in favor (unanimous).

Chair *Pro Tem* Daley asked Appellants when they hoped to get the slab in the ground. Appellant John Gould said as soon as he can get Rex Caulder to dig it up and put it in.

Land Use Authorization Permit Required

Planner Bont reminded the Goulds that they needed a Land Use Authorization Permit to install the cement pad.

Added A Condition of Approval

Chair D'Amante expressed concern that the cement pad be adequate to support the car lift and the vehicles that will be lifted on the car lift. D'Amante would like the ZBA add as a condition that the slab be strong enough to support the weight of the vehicles and the car lift.

Appellant Mary Gould said they have talked to a concrete company Sawyer Brothers, Inc. (??) *(indecipherable – sounds like Sawyers Concrete or Salyers Concrete. There is a concrete company called Sawyer Brothers, Inc., in Thomaston & Warren, ME.)*

Appellant Mary Gould said the owner of the concrete company knows what the specs or requirements are for a cement pad for that use. He has given them an estimate based on those requirements.

Chair D'Amante wants to make that a condition of approval for the Variance.

Chair Pro Tem Daly said the ZBA would have to revote in order to add that condition.

Motion to add a load-bearing weight condition to the variance approval, that the cement pad shall be adequate to support the car lift and the weight of the vehicles that will be lifted by the car lift. Appellants shall submit something [in writing] from the cement contractor to the Planning Office that the cement pad will have the following load bearing capability sufficient to support an X-thousand-pound vehicle that will be lifted up in the air by the car lift by Member Sullivan.

Second by Acting Member Chenard.

All in favor (4-0) unanimous.

IV. CONTINUING AND OTHER BUSINESS: None.

V. OTHER BUSINESS: None.

VI. PUBLIC PARTICIPATION AND OTHER BUSINESS: None

VII. ADJOURNMENT

Motion to adjourn by Member Sullivan at 6:34 PM.

Second by Acting Member Chenard

All in favor (4-0) unanimous

Respectfully submitted,

Judy Sherriff
Recording Secretary

Date Approved: February 21, 2024


Acting Chairman Jack Daly