

TOWN OF WILMINGTON
DEVELOPMENT REVIEW BOARD
FINDINGS OF FACT AND STATEMENT OF FINDINGS
WILMINGTON, VERMONT 05363

A request for a reconsideration on a denial of a Dimension Variance was made to the Board by: **Michael LaBonia**

Owner/Applicant(s) Mailing Address: 23 Lanphier Rd., Branford CT 06405

Address of the subject property: **3 Open Meadow Lane**

Tax Map: parcel # **CH-C-242**

A copy of the request is filed in the office of the Board and is referred to as: #

Description of Case per Public Notice:

Application # **2020-053**: Owner: Michael LaBonia

Application is being made for a **dimensional variance for a front and side setback to build a 20' x 14' garage/shed on western boundary of owner's property adjacent to his house.**

Applicable Wilmington Code Section II, IV, VII.

Notice for a public hearing was published in the Valley News on: **12/17/2020**

Notice was posted in three public places on: **12/15/2020**

A copy of the notice was mailed to the applicant on: **12/15/2020**

A copy of the notice was mailed to the abutters on: **12/15/2020.**

Case Heard: January 4, 2021

Appeal period for this Case expires on: 2/28/2021

Approval expires on: 1/28/2023

The following presented testimony as the applicant or on behalf of the Applicant or as an Interested Person:

EXHIBITS

The following Exhibits were placed in evidence by the Applicant or their Agent:

1. Application (2 pages)
2. Project summary
3. Abutter List
4. Photo existing home showing planned situation of new garage/shed
5. Schematic showing dimensions of planned garage/shed.
6. Schematic drawing showing existing location of sewage disposal components.
7. Letter from Kenneth Spicer, ED Chimney Hill Owners Asso, Inc., approving request to construct the garage/shed with variances, contingent on zoning permit.
8. ZA Letter citing applicable code sections 10/27/20.

9. LaBonia email to ZA correcting error on representative 10/31/20.
10. Property photos exterior DSCF2352-55
11. Property photos exterior DSCF2348-51
12. Informal warning

ARTICLE II: ADMINISTRATIVE PROCEDURES

Section 222: Land Development & uses requiring Development Review Board written Decision & Approval

Section 229: Dimension & Sign Waivers granted by the Development Review Board

Section 233 Dimensional and Sign Waiver Application and Review Process of the Development Review Board

Section 234: Dimensional Variances Granted by the Development Review Board for Other than Renewable Energy Resource Structures

The Development Review Board shall hear and decide requests for dimensional Variances pursuant to 24 V.S.A. § 4469. No Variances shall be granted for zoning requirements other than Dimensions. The Development Review Board shall grant a Variance and render a decision in favor of the appellant only if all of the following facts are found and the findings are specified in its written decision:

- A. There are unique physical circumstances or conditions including irregularity, narrowness, or shallowness of Lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that unnecessary hardship is due to these conditions and not the circumstances or conditions generally created by the provisions of these regulations in the neighborhood or district in which the property is located.
FINDING OF FACTS: There is steep topography and a septic leach field that create circumstances that limit the placement of a shed.
- B. Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these regulations and that the authorization of a Variance is necessary to enable the reasonable Use of the property.
FINDING OF FACTS: The physical constraints and site conditions make it impossible to adhere to strict conformity of the front and side set backs.
- C. Unnecessary hardship has not been created by the appellant.
FINDING OF FACTS: No unnecessary hardship is created appellant.
- D. The Variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate Use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.
FINDING OF FACTS: The proposed location of the shed does not substantially alter the character of the neighborhood, or impair the Use of development of adjacent properties, reduce access to renewable energy sources and is not detrimental to public welfare.
- E. The Variance, if authorized, will represent the minimum Variance that will afford relief and will represent the least deviation possible from these regulations and from the Town Plan.
FINDING OF FACTS: The Dimensional Variances represent the minimum Variance to afford applicant relief from the Town Zoning to enable applicant to have better use of his property, given the Lot's steep topography and location of underground infrastructure.

Conclusion of Law: The DRB has reviewed the exhibits, heard additional testimony from Applicant, visited the site and is satisfied that there is sufficient proof to substantiate a need for a dimensional front and side

setback variance for the shed due to unique site characteristics, such as steep grades and the location of septic leach field which make construction of the garage/shed anywhere else physically impossible and financially infeasible.

ARTICLE IV: DISTRICTS & USES

Section 400 Establishment of Zoning

Finding of Facts: The current use of the lot is residential. Application is to build detached garage/shed which would be classified as accessory use.

Conclusions of Law: Article IV is met.

ARTICLE IV (CON'T) –

Section 450: Districts

A) Conservation

B) Village (a) within the HDRD and (b) outside the HDRD have unique dimensional requirements

C) Residential

D) Resort Residential

E) Commercial/Residential

F) Resort Commercial/Residential

DISTRICT

Finding of Fact: Subject property is in the Residential district

Conclusions of Law: Findings met

USES

Finding of Facts: The Primary use of the structure is a Shed

Conclusions of Law: The proposed Accessory Use is a permitted Use.

Conclusion of Law: Findings met

CONDITIONS:

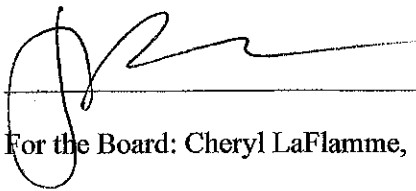
The application for a dimensional variance to allow the construction of the shed at proposed location is **approved** with the following conditions, restrictions, requirements, limitations and specifications.

1. Except as otherwise required to accommodate the conditions of this decision, development will be executed in accordance with Exhibits 1-12 and the testimony provided. Any changes to the plans will require an administrative approval from the Zoning Administrator and/or a review by the Development Review Board, in conformance with the ordinance.
2. DRB approval is to allow a dimensional waiver for the front and side setback requirements as it relates to the proposed location and dimensions of this garage/shed as shown on exhibits. This dimensional waiver is granted only for this specific building at this specific location.
3. Any further dimension changes, alterations, additions to the garage/shed are not permitted or covered under this approval.

Town of Wilmington, Zoning Administrator reserves the right to monitor compliance with this decision and all decisions issued by the Development Review Board

IN FAVOR of granting the APPROVAL FOR the above referenced application, with whatever restrictions, requirements, limitations or specifications are contained herein: Diane Abate, Mary Brady, Charles Foster and Cheryl LaFlamme

OPPOSED: None
ABSTAINING:None



Date: 1/26/2021

For the Board: Cheryl LaFlamme, Chairperson

Appeal Rights: An interested person may appeal this decision to the Vermont Superior Court, Environmental Division, pursuant to 24 VSA 4471 and VRECP Rule 5, in writing, within 30 days from the date this decision is issued. If you fail to appeal this decision, your right to challenge this decision at some future time may be lost because you waited too long. You will be bound by the decision, pursuant to 24 VSA 4472(d) (exclusivity of remedy; finality).

This approval does not relieve the Applicant of the responsibility to obtain all other applicable approvals that may be required by Federal, State, and local laws and ordinances.