

Handwritten initials: (M), (RT), C.G., and a signature.

Lebanon Appeals Board  
Minutes, June 6, 2023  
Lebanon Town Hall

- Meeting open- 6:00 pm
- Present: Chair-Tillman Estes, Vice Chair-Chris Gilpatrick Sr, Secretary-Robert Travers, Mike McChesney, Mike Smith. Also present were Michael Griffin, Kathy Jones, and interim Code Enforcement officer Michael Kennedy.
- Mike Smith made motion to call the meeting to order and Robert Travers seconded. 4 Yes 0 No 0 Abstain
- Tillman Estes led the Pledge of Allegiance
- Tillman Estes explained the process of how this Public Hearing would proceed. At this point, Tillman asked the board if anyone should recuse themselves. Mike McChesney explains that he knows the appellant. Mike Smith asked Mike McChesney if he felt he could make an unbiased decision. Mike McChesney answers yes. At this point, Tillman Estes makes Mike McChesney a voting member.
- Appeals Board Hearing (Highlights)
  - Michael Griffin advised that the 12' x 58' trailer that they lived in burnt years ago. He stated that the trailer does not have a foundation. He explained that they could get a new trailer. Kathy Jones advised that her mother went into a home and that it was her trailer. She also advised that the state is making her mom sell the trailer, so they are trying to buy the trailer and move it to their property. She also states that the trailer is 7 feet longer and 2 feet wider than their current trailer. Michael also advised that they wanted to put in a new septic system as well, which would be further away from the well. Kathy Jones advised that the abutters property line would not be affected. Kathy also advised that the new placement would be further away from the abutter's property by about 5 feet. Michael advised that, currently, the basement is flooded. Kathy and Michael advised that they have been paying lot rent for the trailer for 6 months. Tillman inquired about the application. He noted that Michael turned in the application on March 20, 2023. Per the application, on March 23<sup>rd</sup>, the Code Enforcement Officer advised that the lot is non-conforming and that they could not go bigger.
  - The variance application was discussed. Kathy Jones explained that the variance was in regards to the 214 square foot difference in building and the move. She advised that without doing something to the home, the value of the home would be hindered to make a profit. Michael Griffin also advised that the house would be moved further from the road and the septic would be moved. Tillman inquired about going larger on the septic. Kathy advised that it would be harder to go larger on the septic without moving the house. She also advised that there would be space, but the septic would be closer to the well. Tillman inquired about the location of the septic system. Michael advised

that the septic system would be where the current mobile home is and that the new mobile home would be between the well and the septic system.

- Tillman inquired about the hardship questions. Kathy Jones advised that there is a crawl space where the mobile is currently on a concrete block foundation. She also advised that there is a hill on the property. She also stated that it is always moist, and that they are breathing stuff. She also advised that it is an older place. Michael Griffin advised that the new trailer would be higher up on a new foundation, which would increase the property value. Kathy also advised that the abutters are "...just thrilled about the whole thought". She also stated that there is nothing they did to cause the hardship. Tillman inquired about the property being bought in 2015. Michael confirmed that.
- Mike Smith inquired about if the lot was cut from a larger lot. Tillman advised, from the deed, that it was already there. Michael Griffin stated that there is a tilt to the house that "the pictures bow out a little bit...". He also stated that this is the best opportunity they had to do this and that this would make everything easier. At this point, Michael Kennedy, the interim code enforcement officer arrived. Robert Travers inquired about where the trailer is being moved from. Kathy Jones advised that the trailer is already in town on Lower Middle Road. She also advised that the new trailer is about 7 miles away from their current location. Tillman Estes inquired about the porch on the drawing. Kathy Jones advised that the porch was not included on the drawing. Tillman advised that the porch is considered structure. Tillman advised that the 696 square feet was an incorrect calculation, and that the porch should have been included. He also inquired about the 12 foot by 15 foot shed. Kathy advised that the shed is used, and that they plan to leave it up. Robert inquired about the amount of lean in the house. Michael Griffin advised that the bottom of a photo will be out about one half to one inch. Tillman Estes advised that coverage on the lot can not be greater. Mike McChesney inquired about the livability of the home. Michael Griffin advised that the house is still livable. He also inquired about the scaling on the drawing. Tillman advised that the scale of the drawings should be the same on both drawings. Mike McChesney inquired about the separation between well and septic.
- Michael Kennedy advised that, while he did not originally deny the request, the reason why he would deny it is because it is a pre-existing non-conforming lot with a pre-existing structure, and that non-conformity cannot be increased by adding a structure with a greater square footage. He also advised that, with the new septic, and from a quick calculation, the most that could be built is a front deck of 3 feet by 4 feet. The 60 square foot shed could not be replaced. Michael Kennedy stated that, by removing the shed, that could free up 60 square feet. He also stated that the property value does not decrease with the current structure, citing the hardship criteria. Tillman inquired if they had a plan that included the square footage, Michael advised that he would take a deeper look into it. Michael advised that the plan would have to include soil conditions, lot coverage, etc., and that he would want to know about the surrounding area. Tillman advised that the square footage of the other existing structure would need to be reduced so that the total coverage would not increase. Michael Kennedy confirmed. Robert Travers inquired about what made this lot non-conforming. Michael advised that the lot is less than 2 acres. Tillman advised that in 2017, the town passed an ordinance stating that all property must be at least 2 acres.

- Tillman Estes gave Michael Griffin and Kathy Jones an opportunity to rebut. Kathy Jones advised that this started due to her mother going into a retirement home, and the state making her sell the home. Michael Kennedy advised that the board would need to deny without prejudice for Michael and Kathy to come back with an updated plan. Kathy advised that they cannot keep paying lot rent and a mortgage, and that they may not be able to come back with a plan to bring her mother's trailer to their property.

At this point, Tillman Estes closed the public hearing to allow the Appeals Board to deliberate and make a decision. He invited Michael Griffin and Kathy Jones to stay to listen to the board discuss. Tillman then summarized the case, and explained that the hardship questions would need to be answered. After deliberation, the vote is as follows,

Question 1: Does the Appeals Board believe that the land in question cannot yield a reasonable return unless a variance is granted?

Votes Yes: None

Votes No: Mike Smith, Robert Travers, Chris Gilpatrick Sr., Mike McChesney, Tillman Estes

Question 2: Is the need for the variance is due to the unique circumstances of the property and not the general conditions of the neighborhood?

Votes Yes: Mike Smith, Robert Travers, Chris Gilpatrick Sr., Mike McChesney, Tillman Estes

Votes No: None

Question 3: Will the granting of the variance not alter the essential character of the locality?

Votes Yes: Mike Smith, Robert Travers, Chris Gilpatrick Sr., Mike McChesney, Tillman Estes

Votes No: None

Question 4: Is the hardship not the result of the applicant or prior owner?

Votes Yes: Mike Smith, Robert Travers, Chris Gilpatrick Sr., Mike McChesney, Tillman Estes

Votes No: None

In order for a variance to be granted, all 4 of these questions must be approved. Since the board voted 5-0 against Question 1, the variance is denied. At this point, the chair stated that this variance would be denied without prejudice by unanimous consent. He then explained to Michael Griffin and Kathy Jones the result of the vote, as well as suggestions on how to get the plan approved.

The minutes from May 9<sup>th</sup> and May 23<sup>rd</sup> were reviewed. Motion to accept the minutes as written made by Mike Smith and seconded by Mike McChesney. 5 Yes 0 No 0 Abstain. Motion to accept the minutes as written made by Mike Smith and seconded by Chris Gilpatrick Sr. 5 Yes 0 No 0 Abstain

Robert Travers stated that he was looking through the bylaws, and saw that the word field was in the bylaws, and not the word filed. Motion made by Robert Travers to amend the bylaws to strike the word "field" and insert the word "filed" in Section 9, Paragraph F and seconded by Chris Gilpatrick Sr. 5 Yes 0 No 0 Abstain.

Tillman advised that he sent an email to Paul Philbrick in regards to filling the vacancies on the Appeals Board. He also stated that he posted it on the Lebanon Me and You page.

Motion to adjourn made by Robert Travers and seconded by Chris Gilpatrick Sr. 5 Yes 0 No 0 Abstain

Respectfully Submitted by Robert Travers