

**TOWN OF JAFFREY NH
ZONING BOARD OF ADJUSTMENT
Site Walk & Deliberation Minutes
February 17, 2021**

Site Walk #1:

ZBA 21-03 Timothy J Gordon Rev Trust, Owner, 616 Mountain Rd
Map 212 Lot 16 Zone: Mountain (without town water)

Variance – The applicant requests a variance to allow an accessory structure within the setback (Land Use Code, Zoning Ordinance Section V, 5.7, VI, 6.1)

Present: Chairman Lee Sawyer, Members Walter Batchelder, Phil Cournoyer, Marc Tieger, Andy Webber, Erlene Brayall (alt), and Carl Jevne, (alt).

Staff: Code Enforcement/Building Inspector Rob Deschenes, Recording Secretary Newton

Others: Pam Gordon, Attorney Jason Reimers, Paula Geraghty, Ann St. Cyr

Mr. Gordon identified the proposed site for the 20' x 24' garage. This location would be in keeping with the Mountain Zone by protecting the mountain view and have no impact on the abutting property. If placed here, the garage would only require a setback variance from the road. It is an ideal spot for a low-impact, single-story structure. The closest point of the garage to the ROW is 31 feet. Mr. Gordon then identified the other possible location that would not require a variance; however, this location is less desirable as it would block the view.

Site Walk #2:

ZBA 21-04 Douglas Clayton & Kyung Kim Owners, 822 Mountain Rd
Map 204 Lot 9 Zone: Mountain (without town water)

Variance #1 – The applicant requests a variance to allow a greenhouse up to 1,200 sf in the Mountain Zone (Land Use Code, Zoning Ordinance Section IV, 4.8.3)

Variance #2 – The applicant requests a variance to allow retail sales from a nursery business in the Mountain Zone (Land Use Code, Zoning Ordinance Section IV, 4.8.3)

Present: Chairman Lee Sawyer, Members Walter Batchelder, Phil Cournoyer, Marc Tieger, Andy Webber, Erlene Brayall (alt), and Carl Jevne, (alt).

Staff: Code Enforcement/Building Inspector Rob Deschenes, Recording Secretary Newton

Others: Pam Gordon, Aaron Abitz, Doug Clayton

Mr. Clayton identified the proposed location of the greenhouse. The plan is to landscape the property with items grown on site with the intent to sell. He has not made a final decision on the size of the greenhouse. He is considering purchasing an 18' x 48' high tunnel greenhouse which would be smaller than what is requested. The USDA recommended size for a commercial nursery greenhouse is 1,200-sf. A 600-sf greenhouse is more for a hobbyist.

M Tieger asked what is the water source? D Clayton responded that they have a dug well and a drilled well on site, as well as a bathroom in the house. Mr. Clayton also noted that this will be a seasonal operation. M Tieger explained to Mr. Clayton that the responsible party is the owner of the property.

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PUBLIC HEARING CONTINUED

Chairman Sawyer reconvened the hearing at 4:30 pm.

Present: Chairman Lee Sawyer, Members Walter Batchelder, Phil Cournoyer, Marc Tieger, Andy Webber, Erlene Brayall (alt), and Carl Jevne, (alt).

Staff: Code Enforcement/Building Inspector Rob Deschenes, Recording Secretary Newton

Others: Aaron Abitz, Doug Clayton, Tim Gordon, Ann St Cyr, Ann Royce, Attorney Jason Reimers, Ken Campbell

Via Zoom: Jo Anne Carr, Carolyn Garretson

Chairman Sawyer closed the public hearing

DELIBERATION:

ZBA 21-03 Timothy J Gordon Rev Trust, Owner, 616 Mountain Rd
Map 212 Lot 16 Zone: Mountain (without town water)

Variance – The applicant requests a variance to allow an accessory structure within the setback (Land Use Code, Zoning Ordinance Section V, 5.7, VI, 6.1)

L Sawyer stated the applicant's desired garage location would be less intrusive on the mountain view, however, he doesn't see a hardship for this application. The ruling needs to reflect the intent of the law. W Batchelder agrees. There is nothing unique about the property. If the applicant has reasonable use of the property, then there is no hardship.

A Webber stated the intent of the Mountain Zone is to protect the view of the mountain. Putting the garage in the field would have a negative impact on the view. In his opinion, this is the hardship. P Cournoyer agrees. A Webber added that Mr. Gordon would meet the spirit and intent of the ordinance by locating the garage where it would not block the mountain view.

M Tieger stated that if you stick to the letter of the law, there is no hardship because there is another place to put the garage. He read the definition of a scenic view from the Land Use Code which is similar to the purpose of the Mountain Zone. It is clear that the scenic view should be protected. Putting the garage in the middle of the field would impede the view. Granting the variance will protect the Mountain Zone. This is the hardship. For this reason, he would be in favor of granting the variance.

L Sawyer reviewed the application submitted by Mr. Gordon. The Board unanimously agreed that the applicant met the other four variance criteria.

A letter from Attorney Jason Reimers was read into the record. L Sawyer clarified that Mr. Gordon is not asking for a variance to allow retail sales.

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W Batchelder stated that his interpretation of NH RSA 21:34A and 674:32A and the opinion of Town Council is that agriculture is a permitted use in the Mountain Zone. Mr. Clayton does not need a variance to allow retail sales as long as those sales are accessory to the permitted use (agriculture), provided that the products sold are produced on site. For this reason, the Board unanimously decided that the variance to allow retail sales is unnecessary. The letter from Town Counsel was read into the record.

Letters of support/opposition were read into the record:

1. Town of Troy Water/Sewer
2. Carolyn Garretson
3. Clay & Caroline Hollister
4. Dorothy & Kendall Bacon
5. Margaret Castle & Peter Quick
6. Rosemary Poole
7. Carl Querfurth
8. Bill Jack
9. Rebecca & Charlie Gibson
10. Ken Campbell

In consideration of variance #1, L Sawyer stated that 1,200-sf is not a very large greenhouse. A 600-sf greenhouse would be used by a hobbyist. A Webber pointed out that a variance is a relaxation of the rules, Mr. Clayton's request is double the size of what is allowed. W Batchelder noted that according to the Land Use Code, Mr. Clayton could put up multiple 600-sf greenhouses.

W Batchelder stated that the applicant meets all of the requirements, even hardship. Mr. Clayton is raising indigenous plants and would not be able to do so without the greenhouse. It is a reasonable use.

M Tieger noted that the location of the greenhouse will be far away from the road and will have little visual impact. Everything that Mr. Clayton has presented shows that he is a good steward of the land. M Tieger is in support of the variance.

L Sawyer asked if a condition can be added stating that if the greenhouse goes unused it would be taken down.

M Tieger asked what are the other concerns that have been raised? W Batchelder stated that Ken Campbell wanted to limit additional impervious surface. W Batchelder suggested limited overnight truck parking. Marc Tieger suggested limiting hours of operation to dawn to dusk. Additional concerns include expansion of retail use of the property if it changes hands, hours of operation, and Katsura Landscaping operating their business from the farm. R Deschenes stated that the Mountain Zone is specific as to what type of retail/commercial operations are allowed which limits expansion. Violation of the allowed use would become an enforcement issue. Ultimately, the Board agreed that no additional conditions be attached to the approval.

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A Webber expressed concern that there would be multiple greenhouses on the site.

DECISIONS

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On a **motion** by Webber, seconded by Tieger the request for a variance to allow an accessory structure within the setback was granted as presented per testimony given. (4-1-0) MT, LS, PC, AW in favor WB opposed.

Plans on file include: "Partial Existing Conditions Survey, Prepared for Timothy J. Gordon, Tax Map 212, Lot 16, 616 Mountain Rd, Jaffrey, NH." Dated January 6, 2021, signed and stamped by Jedadiah Paquin, LLS.

ZBA 21-04 Douglas Clayton & Kyung Kim Owners, 822 Mountain Rd
Map 204 Lot 9 Zone: Mountain (without town water)

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~~Variance #2 – The applicant requests a variance to allow retail sales from a nursery business in the Mountain Zone (Land Use Code, Zoning Ordinance Section IV, 4.8.3)~~ *This variance was deemed unnecessary.*

On a **motion** by Tieger, seconded by Cournoyer the request for a variance to allow a greenhouse up to 1,200-sf in the Mountain Zone was granted as presented per testimony given.
(4-1-0) MT, LS, PC, WB in favor AW opposed

Decisions of the Zoning Board of Adjustment are subject to a 30-day appeal period for rehearing.

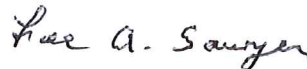
ADJOURNMENT

The meeting adjourned at 5:40 pm
Submitted:



Rebecca Newton
Recording Secretary

Attest:



Lee A. Sawyer
Chairman, Jaffrey ZBA