

TOWN OF ALLENSTOWN
Zoning Board of Adjustment
16 School Street
Allenstown, New Hampshire 03275
September 10, 2014

Call to Order.

The Allenstown Select Board Meeting for September 10, 2014 was called to order by The Chair at 6:38pm.

Roll Call.

Present on the Board: Eric Feustel, Tim Baldasaro, Richard Daughen, Chris Roy, and Diane Demers.

Others Present.

Residents of Allenstown: Raymond Connor, Jack Lupien, Sue Lupien, and Jeff Gardner.

Others Present:

Other Public Officials:

Allenstown Staff: Dana Pendergast, Building Inspector.

Meet with Jack Lupien regarding Case #2004-005

The Chair stated that Mr. Lupien lives on Riverside Drive who is looking for a use area variance. Mr. Pendergast stated that he is looking for a variance for article 703b: front lawn line. Mr. Lupien stated that he would like to build a two car garage on an existing slab of concrete. He stated that he meets all of the requirements except the front setback. He explained that his wife has been a major help with cleaning the driveway in the wintertime but that she had major surgery last year and is no longer able to do so. He also stated that he is on call 24 hours a day and that it is difficult for him to clean the driveway if he has to leave in a hurry.

The Chair asked if Riverside Drive was not a town road and if it sets back. Mr. Pendergast stated that it is a private road and that it does set back.

Mr. Lupien stated that he used to maintain the road himself but that now he pays a resident down the street to maintain it so that they can make it driveable should an emergency vehicle need to come in.

The Chair stated that the only issue is the set back and asked Mr. Lupien why he can't build the garage two feet back. Mr. Lupien stated that it would be going on the existing slab. The Chair asked if the slab is grandfathered in. Mr. Pendergast stated that the slab replaced what was there and that it has been there for ten years so that it probably was grandfathered in.

Mr. Roy asked how thick the slab is. Mr. Lupien stated that it is 5 inches in the middle and 8 inches on the end. The Chair asked if there is a code on that. Mr. Pendergast stated that there is no code on that. He stated that there is no requirement for a slab to be there.

Mrs. Demers asked if being two feet closer causes any obstructions to the road. Mr. Pendergast stated that the town owns the property to the left and the other property has a fence on its yard. Mrs. Demers asked what side the garage would be on and if it is encroaching on the other property. Mr. Pendergast stated that it would be on the fence side and that the garage would not encroach on that property.

Motion. Mr. Roy made a motion to enter into deliberation. Mr. Daughen seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Feustel- Yes; Mr. Baldasaro -Yes; Mr. Daughen - Yes; Mr. Roy - Yes; and Mrs. Demers-Yes. The Chair declared the Motion passed.

The Chair asked if the board agrees that the condition is met. The board members agreed.

The Chair asked if the board agrees that granting the variance is not contrary to the public interest. The board members agreed.

The Chair asked if the board agreed that literal enforcement creates unnecessary hardship. The board members agreed.

The Chair asked if the board agreed that use is reasonable. The board members agreed.

The Chair asked if the board agreed substantial justice is done. The board members agreed.

The Chair asked if the board agreed variance is in the spirit of the ordinance. The board members agreed.

Motion. Mr. Roy made a motion to come out of deliberation. Mr. Daughen seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Feustel- Yes; Mr. Baldasaro -Yes; Mr. Daughen - Yes; Mr. Roy - Yes; and Mrs. Demers-Yes. The Chair declared the Motion passed.

Motion. Mr. Roy made a motion to grant the variance. Mrs. Demers seconded the Motion.

A Roll Call Vote was taken: Mr. Feustel- Yes; Mr. Baldasaro -Yes; Mr. Daughen - Yes; Mr. Roy - Yes; and Mrs. Demers-Yes. The Chair declared the Motion passed.

The Chair advised Mr. Lupien stated that there is a 30 day waiting period in which it can be appealed. He stated that he will receive a written notice of the decision within a week. Mr. Lupien asked if he has to wait the 30 days to start construction. The Chair stated that he doesn't have to but that someone could decide to appeal it within that 30 day period.

Meet with Mr. Gardner regarding area variance for pool

Mr. Pendergast stated that Mr. Gardner is looking for a variance on article 703b for his pool. He stated that the set back is supposed to be 15 feet from the rear lot line. He stated that it is about 8 feet from the rear lot line. Mr. Gardner stated that there was a variance granted for the pool that it is replacing from three to four years ago. He stated that the new pool is three feet larger in diameter and is three feet closer to his house.

The Chair asked if there is a set back from the house. Mr. Pendergast stated that there is no set back but that there isn't a variance for the original pool. Mr. Gardner stated that he does have a permit for the new pool. He stated that he has a picture of the pool if the board would like to see it. Mr. Pendergast stated that he could email it to Mrs. Demers and she could make a copy but that he cannot submit an electronic copy. Mr. Gardner emailed the pictures to Mrs. Demers.

Mr. Pendergast stated that Mr. Gardner is the tenant of the property and that the property owner has given written permission to act as an agent of the property. He stated that the documentation states that Mr. Gardner can act as executor of the property.

The Chair asked if the pool is not going any closer to the lot line. Mr. Pendergast stated that it is not but that they do not have documentation that there was ever a variance granted for it so technically the pool was there in error. The Chair stated that he already has a permit for it and they can't revoke the permit. Mr. Pendergast stated that they can revoke the permit if something is done that is in violation of the zoning. He stated that the way that the law reads, if something is done that is in violation of zoning, they have to remove it. He stated that they can consider hardship of removing the violation and they could grant an equitable waiver. He stated that the other Building Inspector gave them a permit in error and there is no evidence of documentation that the permit was ever granted.

Mr. Daughen excused himself from the meeting.

Mr. Gardner showed the board members pictures of the back yard and where the pool would go. He stated that it is an above ground pool that is 54 inches in height and 21 feet around. The Chair asked if it is considered a permanent structure. Mr. Pendergast stated that it is a permanent structure just as a shed would be.

Mr. Connor stated that he is an abutter and asked for clarification of where the pool would be. Mr. Gardner stated that it will be 2 ½ feet closer to granite street but pretty much in the same spot as the last pool. Mr. Connor stated that he didn't have an issue with that.

Motion. Mr. Roy made a motion to go into deliberation. Mrs. Demers seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Feustel– Yes; Mr. Baldasaro –Yes; Mr. Roy – Yes; and Mrs. Demers-Yes. The Chair declared the Motion passed.

The Chair asked if the board agreed that there no demission of property value to the surrounding properties. The board members agreed.

The Chair asked if the board agreed that it is not contrary to public interest. The board members agreed.

The Chair asked if the board agreed that literal enforcement would create unnecessary hardship. The board members agreed.

The Chair asked if the board agreed that is in keeping of consistency of the property and there is nothing substantial deviate or decrease in value. The board members agreed.

The Chair asked if the board agreed that the proposal is reasonable. The board members agreed.

The Chair asked if the board agreed that substantial justice is done. The board members agreed.

The Chair asked if the board agreed that the spirit of the ordinance is observed. The board members agreed.

Motion. Mr. Roy made a motion to come out of deliberation. Mr. Baldasaro seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Feustel– Yes; Mr. Baldasaro –Yes; Mr. Roy – Yes; and Mrs. Demers-Yes. The Chair declared the Motion passed.

Motion. Mr. Roy made a motion to grant the variance. Mrs. Demers seconded the Motion.

A Roll Call Vote was taken: Mr. Feustel– Yes; Mr. Baldasaro –Yes; Mr. Roy – Yes; and Mrs. Demers-Yes. The Chair declared the Motion passed.

The Chair advised Mr. Gardner that there is a potential for an appeal within the 30 days but that as far as the Zoning Board is concerned that they have no issue with the variance and that he will receive a written notice within a week.

Mr. Gardner asked if there is a time limit on the variance. Mr. Pendergast stated that the variance stays with the property. The Chair specified that area variances stay with the property whereas

use variances go with the property but that if they are not exercised within a certain number of years it becomes abandoned use and that Mr. Gardner doesn't have that problem.

Discussion and vote of Secretary for ZBA

Mrs. Demers suggested that they use the Minutes Clerk to transcribe the minutes. Mr. Roy asked if they have a secretary budget. The Chair stated that they have a budget for the secretary. He stated that it becomes dicey for them if there is a special condition. Mr. Pendergast stated that the secretary needs to be the person who is sending out the letters and agendas. He stated that he does that right now but that he is not supposed to be doing it.

Mrs. Demers stated that she would be the secretary.

Motion. Mr. Roy made a motion to nominate Mrs. Demers as secretary. Mr. Baldasaro seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Feustel- Yes; Mr. Baldasaro -Yes; Mr. Roy - Yes; and Mrs. Demers-Yes. The Chair declared the Motion passed.

Discussion of Upcoming Meeting and Application

Mr. Pendergast stated that he received an application for September 24, 2014. He stated that the applicant came in a while ago and didn't pay their fees but apparently the fees have now been paid. He stated that he needs to give the abutters five days' notice. The Chair, Mr. Baldasaro, and Mrs. Demers stated that they had conflicts on that date.

The board determined that the next meeting would be on October 8, 2014.

Motion. Mrs. Demers made a motion to adjourn. Mr. Roy seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Feustel- Yes; Mr. Baldasaro -Yes; Mr. Roy - Yes; and Mrs. Demers-Yes. The Chair declared the Motion passed.

The Chair declared the meeting adjourned at 7:25pm.

 10/8/14

 10/8/14

Deane Demers 10/8/14

 10/8/14⁵



Zoning Board of Adjustment

Town of Allenstown

16 School Street

Allenstown, NH 03275

Tel: (603)-485-4276

Fax: (603) 485-8669

APPLICATION FOR VARIANCE OF USE OR AREA

I hereby apply for a hearing requesting a VARIANCE to the terms of Article 703 Section B.2 of the Town of Allenstown Zoning Ordinance

Case #: _____

Applicant Jeffrey Gardner Telephone: 603-717-4897

Address: 5 Court st

Email: JGardner@Firehousemail.com

Owner: Marissa Gatta Telephone: [REDACTED]

Address: 153 Lowell Rd Salem NH

Email: MarissaGatta@gmail.com

Property Address or Location: 5 Court st

Tax Map 112 Lot # 163 Zone: R1

Property Description (Length of Frontage, Side and Rear Lines, Etc.): _____

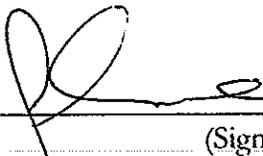
~~100' E~~ ~~105' W~~ All EQUAL
100' L 83' W

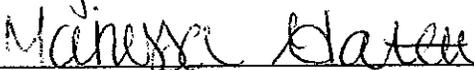
Proposed Use or Existing Use Affected: would like to replace old, Broken 18' pool with 21' New Pool. It will not be any closer to any lot lines, will be 3-4' closer to the house. The existing, previously approved pool is 7-8' from rear lot line. The rear lot behind the pool is an empty field.

Why Does Your Proposed Use Require An Appeal To The Zoning Board Of Adjustment? _____

The pool will be in the exact same place as the old one, previously approved by town Building inspector. It will not be any closer to any lot lines. ~~But~~ The pool will be 16-18' from side lot line, 7-8' from the rear, which is where existing pool was. The rear lot line is an empty field with my 4' chain link fence. It will be 7-8' from rear lot line where the existing pool is

All information must be filled out completely and required documentation submitted with application in order to be accepted.

Applicant:  _____ Date: 6/1/14
(Signature)

Owner:  _____ Date: 6/5/14
(Signature- If not same as applicant)

FOR DEPARTMENT USE ONLY

Case No. _____

Date filed: _____ Received By: _____ Fees: _____

Gardner 5 Court St



Zoning Board of Adjustment

Town of Allenstown

16 School Street

Allenstown, NH 03275

Tel: (603)-485-4276

Fax: (603) 485-8669

APPLICATION FOR VARIANCE OF USE OR AREA

Before you undertake completing this application we strongly encourage you to read the entire application first. Upon reading the entire application go back and answer the questions 1 through 5 with as much specific factual detail as required. The obligation of demonstrating facts sufficient to support your appeal is your responsibility. Use the "Required Documentation Checklist" to assist you in properly collecting the necessary data and providing responses that factually support your position.

The undersigned hereby requests a variance to the terms of Article 703 Section B.2 and asks that said terms be waived to permit:

The Replacement of the existing, previously Approved pool
in the exact location with respect to the lot lines.
Construction will be a New 21' professionally installed
Above Ground pool.

You are required by law to demonstrate:

1. That there will not be a diminution of value of the surrounding properties as a result of the granting of this variance because:

The pool is Replacing a pre-existing pool, and Aesthetically
is a complete upgrade. The walls of the pool are a
Neutral color and it will allow the removal of
the old, Damaged / Destroyed pool.

2. That the granting of the variance will not be contrary to the public interest because: _____

There HAS BEEN A pool in the current location for
Approx 5 years. It is to the rear of the house ~~in~~ the
Rear lot line borders no houses, but open field.

3. That the literal enforcement of the zoning ordinance will create an unnecessary hardship because: _____

I + could greatly decrease my property value, and
Reduce my wife's ability to perform low impact exercise.

A. For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area because: _____

Nobody else on the street HAS A pool

a. 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 for the following reasons: _____

This will not be a community use and no public relationship
exists between the location / cause in question and public
Right of ways

b. And, the proposed use is a reasonable one for the following reasons: _____

The proposed use of the property for which this variance
is requested is to remove an old pool and construct a new
one in its place. Nothing more nothing less. The pool is
Aesthetically pleasing AND is a means of exercise for not only
my whole family, but my wife who is stricken with
severe arthritis since she WAS BORN. Per her Rheumatologist,
low impact exercise such as water / swimming, etc. -

If the criteria in subparagraph (A) above are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. The definition of "unnecessary hardship" set forth in subparagraph (3) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

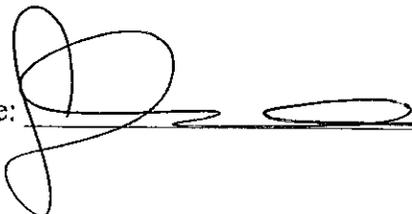
4. That through the granting of relief by a variance substantial justice will be done because:

It will help Reclaim the Aesthetics of the property
As well as help my Disabled wife with her Severe Arthritis
Stricken Body maintain - low-impact exercise As prescribed by
her Doctor.

5. The use, for which the variance is requested, t the spirit of the ordinance will be observed because:

There are no homes or structures Behind the rear of the lot
It is an empty field. The pool will be constructed in the
same footprint in respect to the lot lines as the previously
installed / approved pool.

Signature:



Date:

6/22/14



Zoning Board of Adjustment

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APPLICATION FOR VARIANCE OF USE OR AREA

Before you undertake completing this application we strongly encourage you to read the entire application first. Upon reading the entire application go back and answer the questions 1 through 5 with as much specific factual detail as required. The obligation of demonstrating facts sufficient to support your appeal is your responsibility. Use the "Required Documentation Checklist" to assist you in properly collecting the necessary data and providing responses that factually support your position.

The undersigned hereby requests a variance to the terms of Article 703 Section B and asks that said terms be waived to permit: Construction of a

24x24, 2 stalls garage with new vertical
metal siding and metal roof and 2/10' Doors

You are required by law to demonstrate:

1. That there will not be a diminution of value of the surrounding properties as a result of the granting of this variance because: The new garage will have

same color vertical siding as existing house
and same color Roofing as existing house.
with white garage Doors.

2. That the granting of the variance will not be contrary to the public interest because:

Riverside Dr. is a private road with only a few residents who live further down the street and only a few cars a day that goes by.

3. That the literal enforcement of the zoning ordinance will create an unnecessary hardship because:

A. For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area because::

a. 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 for the following reasons:

Being a private residence, the specific application would not affect the public in any way or form.

b. And, the proposed use is a reasonable one for the following reasons:

My wife had brain surgery last year and she does not have the energy required some time to clean the snow in the winter because she still cares for her mother that live in Manchester and because I am on call 24/7 at work, I have to leave very early in the morning and I don't have time to clean the driveway or her car.

If the criteria in subparagraph (A) above are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. The definition of "unnecessary hardship" set forth in subparagraph (3) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

4. That through the granting of relief by a variance substantial justice will be done because:

Having a garage to park the vehicles would make life much easier, specially during winter months.

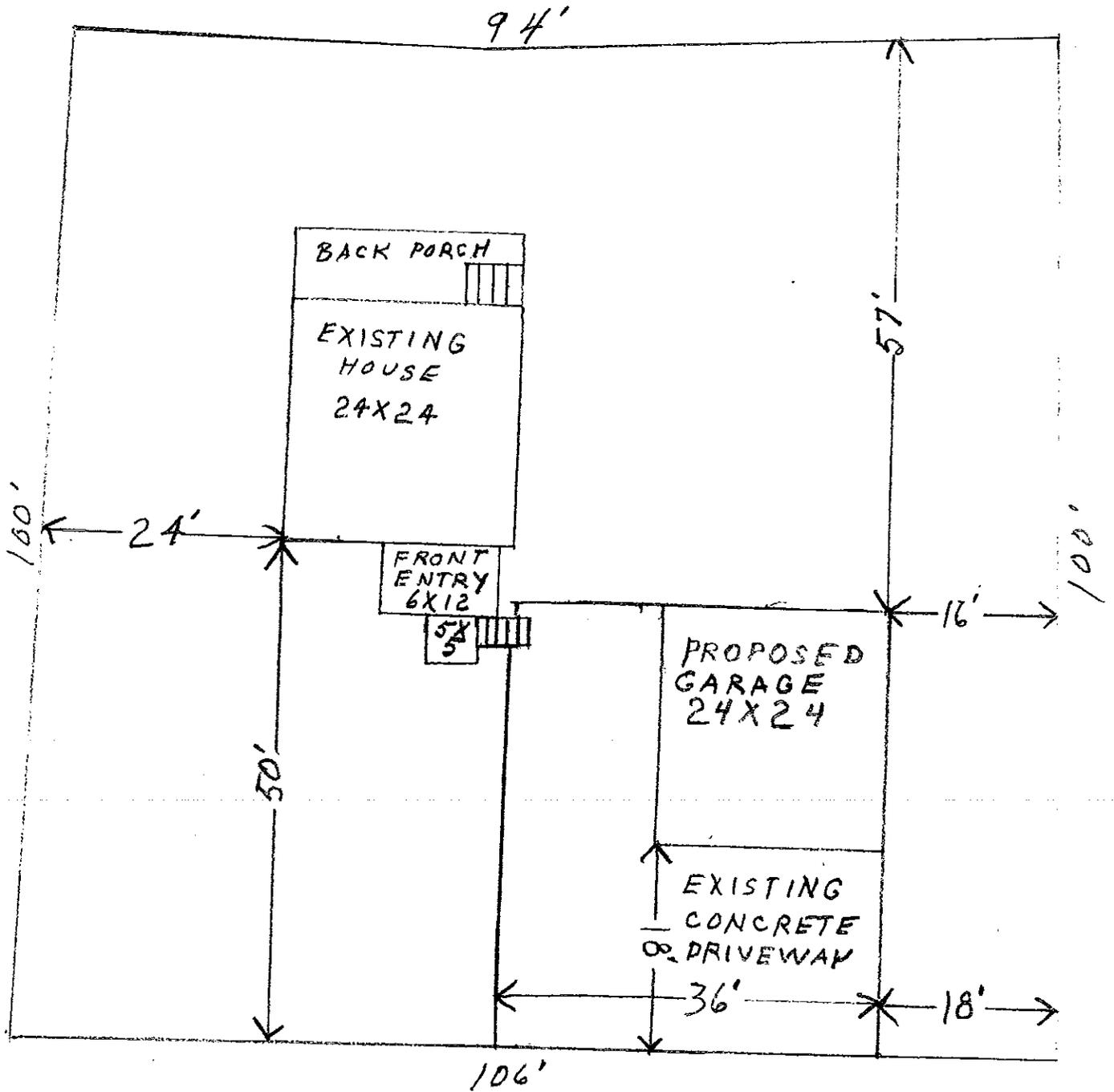
5. The use, for which the variance is requested, t the spirit of the ordinance will be observed because:

My home would remain a single family dwelling with same lawn area showing

Signature: *Jack Lupien*

Date: *7/15/14*

SUNCOOK RIVER



RIVERSIDE DRIVE

JACK + SUE LUPIEN
34 RIVERSIDE DR
ALLENSTOWN NH 03075

TAX MAP 103 LOT #3

SCALE 1" = 15'



Zoning Board of Adjustment

Town of Allenstown

16 School Street

Allenstown, NH 03275

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APPLICATION FOR VARIANCE OF USE OR AREA

I hereby apply for a hearing requesting a VARIANCE to the terms of Article 703 Section
B of the Town of Allenstown Zoning Ordinance

Case #: _____

Applicant: Jack Lupien Telephone: 603-210-1082

Address: 34 Riverside DR.

Email: JSL34@COMCAST.NET

Owner: Jack Lupien Telephone: [REDACTED]

Address: 34 Riverside DR.

Email: JSL34@COMCAST.NET

Property Address or Location: 34 Riverside DR.

Tax Map 103 Lot # 3 Zone: B-2

Property Description (Length of Frontage, Side and Rear Lines, Etc.): _____

Frontage 106'

Left side 100'

Right side 100'

Rear 94'

Proposed Use or Existing Use Affected: 24x24, 2 stall garage
over existing reinforced concrete slab.

Why Does Your Proposed Use Require An Appeal To The Zoning Board Of Adjustment?

According to article 703 section B, the set back on the front does not meet twenty feet from the street and would be set at 18' instead.

All information must be filled out completely and required documentation submitted with application in order to be accepted.

Applicant: *Jack Lupin* (Signature) Date: *7/15/14*

Owner: _____ Date: _____
(Signature- If not same as applicant)

FOR DEPARTMENT USE ONLY

Case No _____

Date filed: _____ Received By: _____ Fees: _____