

# CITY OF LEWISTON BOARD OF APPEALS

Wednesday, August 17, 2016 – 6:00 P.M.

Council Chambers  
Lewiston City Building  
27 Pine Street, Lewiston

## AGENDA

### I. ROLL CALL

### II. NEW BUSINESS:

An application submitted by Bruce L. Roy requesting a side setback modification to construct a 15.5' x 24' detached garage to be located 10.5' from the westerly side lot line at 5 Larrabee Road.

### III. READING OF THE MINUTES: Motion to adopt the draft minutes from January 20, 2016.

### IV. ADJOURNMENT

City of Lewiston  
Department of Planning and Code Enforcement

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**Memorandum**

TO: Lewiston Board of Appeals  
FR: Gil Arsenault, Director of Planning and Code Enforcement  
RE: Appeal of August 17, 2016  
DT: August 4, 2016

**I submit the following information and comments with respect to the appeal of Bruce L. Roy, 5 Larrabee Road, Lewiston, Maine 04240.**

Mr. Roy is requesting a side setback modification in order to construct a 15.5' x 24' detached garage to be located 10.5' from the westerly side lot line on the property at 5 Larrabee Road. This property is located in the Highway Business District and this appeal has been filed pursuant to Appendix A, Article VIII, Section 4(10), and Article IX, Sections 3(9) and 3(10) of the Code of Ordinances of the City of Lewiston, hereinafter referred to as the Code.

This 9,612 square foot property is developed with a single-family dwelling. The use of this property as a single-family dwelling is nonconforming. The property is also nonconforming with respect to frontage (150' is required and the lot has 102' of frontage) and rear setbacks (20' is required and the building is approximately 16' from the rear property line). The septic system is located on the easterly side of the property. According to City Assessment records this property was developed in 1890.

Given the existing development of this property it is my opinion that the Board would be justified in granting the requested modification. In the event that the Board is satisfied that the applicable modification standards can be met, granting the appeal would be consistent with the Zoning and Land Use Code of the City of Lewiston.

This appeal may be heard pursuant to Appendix A, Article VIII, Section 4(10), and Article IX, Sections 3(9) and 3(10) of the Code.

**ACTIONS NECESSARY:**

- Conduct a hearing concerning the above mentioned petition.
- Obtain input on the petition.

Make a determination that the application is/is not complete.

Make a motion that the petition meets/does not meet the applicable criteria contained in Article IX, Sections 3(9) and 3(10) of the Code and to grant/deny the setback modifications.

The modification provisions are as follows:

## **APPENDIX A, ZONING AND LAND USE CODE**

### **Article IX, Appeals**

**Section 3(9).** Modifications of setbacks, yards, maximum lot coverage ratio, maximum impervious surface ratio, minimum open space ratios, and maximum building height requirements by not more than twenty-five (25) percent; for lots in the highway business and community business zoning districts with frontage on Main Street, Sabattus Street or Lisbon Street, the modification may be up to thirty (30) percent. The requested modifications of the aforementioned space and bulk requirements shall meet the following criteria:

a. Detached single-family dwellings and their accessory structures may be located a minimum of ten (10) feet from the nearest point of any existing principal structure or building on any adjacent lot.

All other residential and nonresidential structures requesting modifications must be constructed in accordance with the current building code.

b. The granting of the reduction will not result in undue impact on adjacent properties due to the placement of buildings or structures, location of service, parking or storage areas, diversion of surface water or blocking of solar access;

c. The modification will not impede the ability of public safety services to reach or service the property or adjacent properties;

d. The modification provisions cannot be used to further modify space and bulk requirements already reduced pursuant to the cluster provisions found under Article XIII, sections 7 and 9; or to reduce the minimum lot size, minimum frontage, minimum setback and minimum yard requirements for Article XI for single-family cluster developments, mixed residential developments, mixed single-family residential developments and mobile home parks as they apply to the development in its entirety as if it were a single unit; or to further modify yard and setback reductions allowed for awning and canopy installations, and existing service stations, pursuant to Article V, sections 3(q) and (t), respectively.

**Section 3(10)** Modifications of front setbacks limited to vertical expansions, side and rear yards, side and rear setbacks, maximum lot coverage ratios, maximum impervious surface ratios, minimum open space ratios, maximum building height requirements by more than twenty-five (25) percent (or by more than thirty (30) percent for lots in the highway business and community business zoning districts with frontage on Main Street, Sabattus Street or Lisbon Street), but not greater than fifty (50) percent. The requested modifications of the aforementioned space and bulk requirements shall meet the criteria contained in Section 3(9) above and the following additional criteria:

For modifications to the front setbacks, side and rear yards, side and rear setbacks, maximum lot coverage ratios, maximum impervious surface ratios, minimum open space ratios and maximum building height requirements, the proposed structure, building, storage area, parking or other impervious area cannot otherwise be practically located on the lot to satisfy the code requirements from which relief is sought. In assessing practicality, the board shall take into consideration impediments to development imposed by floodplains, wetlands, shore land zoning, topography, geology, lot size and configuration and limitations caused due to existing conditions of development.

The reviewing authority shall also assess the need for the development and the use of the property in relation to the relief requested such as could the proposed improvements be reduced in scope or be reasonably placed at another location on the lot and still generally meet the petitioners objectives; or are there aesthetic, architectural or structural considerations that warrant that the proposed relief be granted.

**CITY OF LEWISTON BOARD OF APPEALS  
OFFICIAL NOTICE – 5 LARRABEE ROAD  
WARD 2 - TIMOTHY J. LAJOIE**

In accordance with the provisions of the Code of Ordinances of the City of Lewiston you are hereby notified that a public hearing will be held by the Lewiston Board of Appeals at **6:00 p.m.**, in the Council Chambers on the first floor of City Hall, 27 Pine Street, on **Wednesday, August 17, 2016** to consider the request of Bruce L. Roy, 5 Larrabee Road, Lewiston, Maine 04240. Mr. Roy is requesting a side setback modification to construct a 15.5' x 24' detached garage to be located 10.5' from the westerly side lot line at 5 Larrabee Road.

This property is located in the Highway Business District, and this appeal has been filed pursuant to Appendix A, Article VIII, Section 4(10), and Article IX, Sections 3(9) and 3(10) of the Code of Ordinances of the City of Lewiston. A copy of the Petitioner's appeal and the applicable sections of the City Code are on file in the Department of Planning and Code Enforcement located in City Hall. If you have any questions or concerns please feel free to contact the Department of Planning and Code Enforcement at 207-513-3125.

Receipt Date:	_____
Receipt #:	_____
Amount:	_____
Hearing Date:	_____
Office Use Only	

**CITY OF LEWISTON  
PETITION FOR APPEAL**

**Lewiston Board of Appeals  
c/o Code Enforcement Division  
City Building, 27 Pine Street  
Lewiston, Maine 04240**

**INSTRUCTIONS:** Please print or type your responses to the following requests for information and add any attachments or exhibits that may support your appeal. Submit an original and eleven (11) copies of your completed petition for appeal along with any attachments, and the application fee of one hundred and fifty dollars (\$150.00). Also, please include eleven (11) copies of a site plan (a site plan must be drawn to scale, show all existing and proposed structures, which includes fences, pools, decks, etc., and paved areas such as driveways, parking areas, etc.) along with eleven (11) copies of a deed; if you are not the owner of record you must also provide documentation showing your interest in the property subject to this appeal. Your petition and site plan will be forwarded to the Board of Appeals.

The various chapters and sections that are mentioned in this petition are referenced from the Code of Ordinances of the City of Lewiston which is available for review at the Code Enforcement Office.

A) Street address of the property in question: 5 LARRABEE ROAD

B) Legal name, address, and telephone number of petitioner(s):  
BRUCE L. ROY Telephone No. 689-5677  
 \_\_\_\_\_ Telephone No. \_\_\_\_\_

- C) I/we hereby petition the Board of Appeals for a hearing regarding the following categories as checked:
1. \_\_\_ Administrative appeal [Appendix A, Article VIII, Sec. 4(1)]
  2. \_\_\_ Variance [Appendix A, Article VIII, Sec. 4(2)]
  3. \_\_\_ Conditional use permit [Appendix A, Article VIII, Sec. 4(6)]
  4. \_\_\_ Modification of fence and wall standards [Appendix A, Article VIII, Sec. 4(8)]
  5.  Modification of yard, setback, height, lot coverage ratio, and open space requirements [Appendix A, Article VIII, Sec. 4(10)]
  6. \_\_\_ Other (Please specify and indicate the appropriate reference from the Revised Code of Ordinances of the City of Lewiston.)

## Modifications

(9) Modifications of setbacks, yards, maximum lot coverage ratio, maximum impervious surface ratio, minimum open space ratios, and maximum building height requirements by not more than 25 percent; for lots in the highway business and community business zoning districts with frontage on Main Street, Sabattus Street or Lisbon Street, the modification may be up to 30 percent. The requested modifications of the aforementioned space and bulk requirements shall meet the following criteria:

a. Detached single-family dwellings and their accessory structures may be located a minimum of ten feet from the nearest point of any existing principal structure or building on any adjacent lot.

All other residential and nonresidential structures requesting modifications must be constructed in accordance with the current building code.

b. The granting of the reduction will not result in undue impact on adjacent properties due to the placement of buildings or structures, location of service, parking or storage areas, diversion of surface water or blocking of solar access;

c. The modification will not impede the ability of public safety services to reach or service the property or adjacent properties;

d. The modification provisions cannot be used to further modify space and bulk requirements already reduced pursuant to the cluster provisions found under article XIII, sections 7 and 9; or to reduce the minimum lot size, minimum frontage, minimum setback and minimum yard requirements for article XI for single-family cluster developments, mixed residential developments, mixed single-family residential developments and mobile home parks as they apply to the development in its entirety as if it were a single unit; or to further modify yard and setback reductions allowed for awning and canopy installations, and existing service stations, pursuant to article V, subsections 3(q) and (t), respectively.

(10) Modifications of front setbacks limited to vertical expansions, side and rear yards, side and rear setbacks, maximum lot coverage ratios, maximum impervious surface ratios, minimum open space ratios, maximum building height requirements by more than 25 percent (or by more than 30 percent for lots in the highway business and community business zoning districts with frontage on Main Street, Sabattus Street or Lisbon Street), but not greater than 50 percent. The requested modifications of the aforementioned space and bulk requirements shall meet the criteria contained in subsection 3(9) above and the following additional criteria:

For modifications to the front setbacks, side and rear yards, side and rear setbacks, maximum lot coverage ratios, maximum impervious surface ratios, minimum open space ratios and maximum building height requirements, the proposed structure, building, storage area, parking or other impervious area cannot otherwise be practically located on the lot to satisfy the code requirements from which relief is sought. In assessing practicality, the board shall take into consideration impediments to development imposed by

D) What is it that you are specifically appealing? Please be sure to be very concise in your response and, if applicable, include copies of denied applications for permits, a description of the change and/or new use, etc. Use additional sheets if necessary.

REDUCE SIDE SETBACK FROM TWENTY (20) FEET  
TO TEN AND ONE-HALF (10.5) FEET, FOR DETACHED  
GARAGE AND PAVED DRIVEWAY

E) Information regarding the property that is the subject of this appeal.

1. Legal name, address, and telephone number of owner of the property in question:

BRUCE L. ROY

Telephone No. 68

Telephone No.

2. Zoning District Designation:

3. Shoreland Zone ..... Yes \_\_\_ No

4. Lake Conservation District ..... Yes \_\_\_ No

5. Ground Water Conservation District ..... Yes \_\_\_ No

6. Flood Plain Management District ..... Yes \_\_\_ No

7. Is the subject property a significant structure or is it located in a significant district as per the preservation and conservation standards of Appendix A, Article XV, Sec. 3. Yes \_\_\_ No

8. Lot size: 9,443 SQUARE FEET

Lot Coverage Ratio: Existing: 1,312 FT.<sup>2</sup> Proposed: 1,684 FT.<sup>2</sup>

Impervious Surface Ratio: Existing: 2,112 FT.<sup>2</sup> Proposed: 3,454 FT.<sup>2</sup>

9. Property Restrictions:

a. Easements Yes \_\_\_ No

b. Covenants Yes \_\_\_ No

c. Prior Conditional Use approval Yes \_\_\_ /Date: \_\_\_\_\_ No

d. Prior Variance approval Yes \_\_\_ /Date: \_\_\_\_\_ No

e. Briefly describe restrictions:

10. Describe current use of property to include size of structures, description of buildings, availability of parking, etc. If the property is in mixed use please give the floor area of each use. For non-residential uses, identify hours of operation, number of employees, etc. Use additional sheets if necessary.

SINGLE FAMILY HOUSE WITH PAVED PARKING

F) Statement of the reasons that you believe support the granting of your appeal (be sure to respond to the appropriate standards for the granting of appeals and respond accordingly) and in the event that the appeal is granted, describe the anticipated changes to the subject property. If applicable, be sure to include items such as new parking demand, hours of operation, etc. If any structures or additions to structures are to be erected or driveways, parking areas or other impervious surfaces are to be added or expanded be sure to include the proposed lot coverage ratio and the impervious surface ratio. Use additional sheets if necessary.

THIS IS MOST PRACTICAL LOCATION ON THE PROPERTY

Andrew Cheate, attorney  
Petitioner's Signature

for Bruce L. Roy  
Petitioner's Signature

Bruce Roy  
Owner's Signature

Owner's Signature

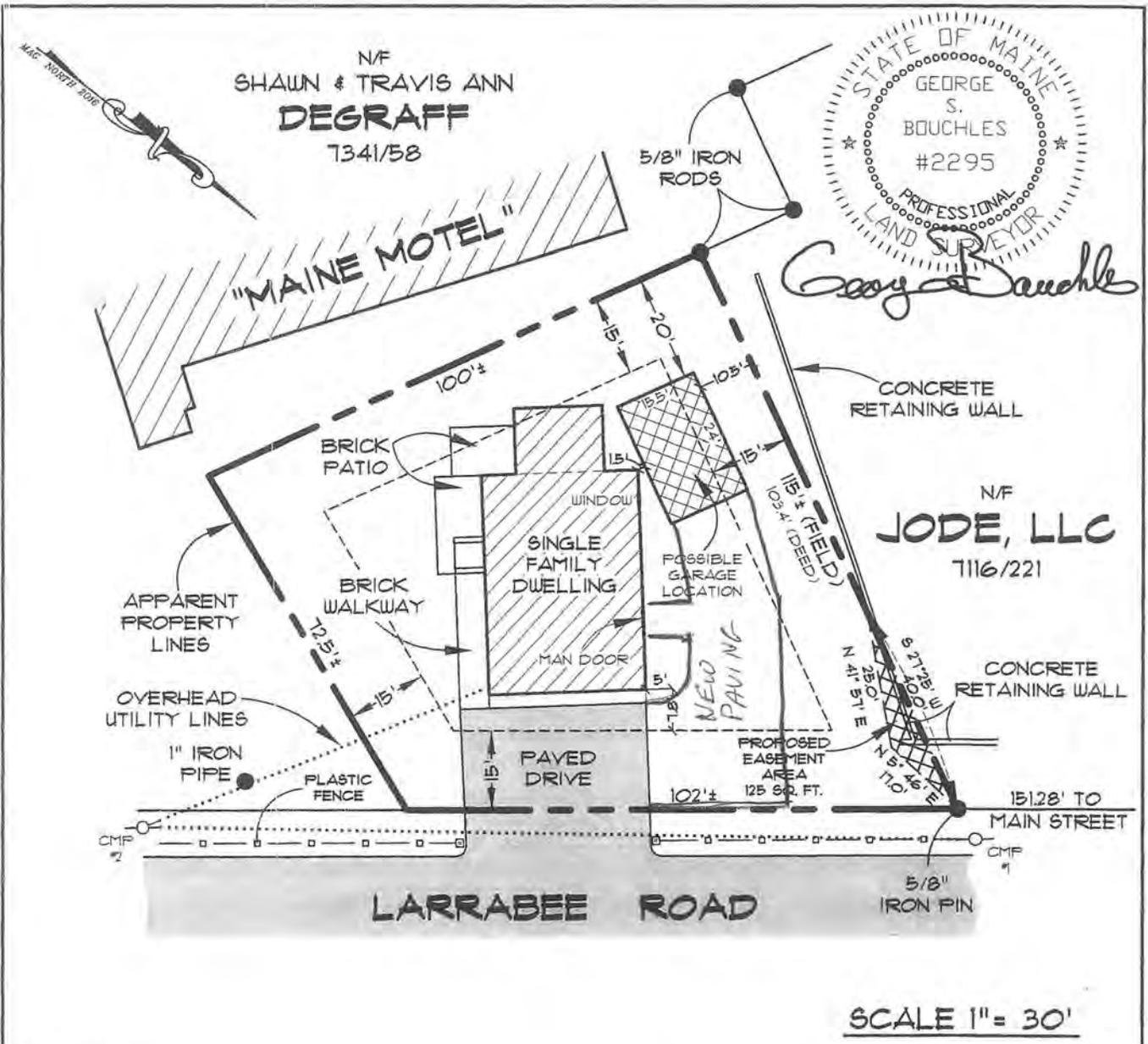
Aug. 3, 2016  
Date

Date

8-3-16

Date

Date



**NOTES:**

1.) THIS IS NOT A BOUNDARY SURVEY. THE SOLE PURPOSE OF THIS PROPOSED CONDITION SKETCH PLAN IS TO SERVE AS A VISUAL AID IN THE REVIEW AND SUBMISSION OF A BUILDING PERMIT APPLICATION TO CONSTRUCT THE ABOVE DELINEATED "PROPOSED GARAGE", AND WAS PREPARED WITHOUT THE BENEFIT OF A BOUNDARY SURVEY AT THE REQUEST OF THE CLIENT AND IS SUBJECT TO VARIATIONS THAT A BOUNDARY SURVEY MAY REVEAL. NO MONUMENTS WERE SET AT THE CORNERS SHOWN ABOVE BY THIS SURVEYOR.

2.) AT THE REQUEST OF THE CLIENT, NO INDEPENDENT INVESTIGATION WAS MADE TO DETERMINE COMPLIANCE WITH LOCAL AND/OR STATE LAND USE REGULATIONS BY THIS SURVEYOR. THEREFORE, PRIOR TO THE USE OF THIS DESCRIPTION, YOU ARE STRONGLY ADVISED TO CONFER WITH THE LOCAL CODE ENFORCEMENT OFFICER AND/OR LEGAL COUNSEL AS TO COMPLIANCE WITH LOCAL REGULATIONS.

**PROPOSED CONDITION SITE SKETCH**

PREPARED FOR

**BRUCE ROY**

5 LARRABEE RD. - LEWISTON, ME



prepared by  
**CADmaster Drafting,  
Land Surveying  
& Septic Design**

191 Madison St - Auburn, ME 04210  
tel./fax = 689-3232 cell=240-5567

DATE: 7/21/2016	FILE NAME: 16-057PRO.DWG	JOB NO. 16-057
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MAINE SHORT FORM WARRANTY DEED

We, JOHN R. HORTON and LORI L. SPICER HORTON, of 5 Larrabee Road, Lewiston, County of Androscoggin and State of Maine, for consideration paid, grant to BRUCE L. ROY and NOEL A. ROY, of 211 Randall Road, Lewiston, County of Androscoggin and State of Maine, with WARRANTY COVENANTS, as joint tenants, a certain lot or parcel of land with the buildings thereon situated in Lewiston, County of Androscoggin and State of Maine, being more particularly described in the attached Exhibit A.

For the source of title of these grantors, see warranty deed from Patrick Butler recorded in the Androscoggin County Registry of Deeds in Book 2742, Page 162.

The premises are conveyed subject to any easements and restrictions of record and this deed includes all rights, easements, privileges, and appurtenances belonging to the premises hereinabove described.

WITNESS our hands and seals this 26 day of October, 1994.

MAINE REAL ESTATE  
TRANSFER TAX PAID

Patricia A. Barter  
Witness Patricia A. Barter

John R. Horton  
John R. Horton  
Lori L. Spicer Horton  
Lori L. Spicer Horton

STATE OF MAINE  
Androscoggin, SS.

Personally appeared the above named JOHN R. HORTON and LORI L. SPICER HORTON, known to me, this 26 day of October 1994, and acknowledged before me the foregoing instrument to be their free act and deed.

Patricia A. Barter  
Notary Public/

Patricia A. Barter  
Printed Name  
My Comm. Exp. 12/28/99

WBS/tmk 5.23



over

94-1455

Exhibit A

A certain lot or parcel of land, with the buildings thereon, situated in Lewiston, County of Androscoggin and State of Maine, bounded and described as follows:

Beginning at a point on the Southerly side of Larrabee Road, so-called, one hundred and fifty-one and twenty-eight hundredths (151.28) feet Easterly from the intersection of the Southerly line of said Larrabee Road and the Easterly line of Main Street, at an iron pipe set in the ground; thence in an Easterly direction along said Southerly side of said Larrabee Road for a distance of one hundred and two (102) feet, more or less, to an iron pipe set in the ground; thence in a general Southerly direction, seventy-two and five tenths (72.5) feet, more or less, to an iron pipe set in the ground; thence in a general Westerly direction for a distance of one hundred (100) feet, more or less, to an iron pipe set in the ground; thence in a general Northerly direction for a distance of one hundred and three and four tenths (103.4) feet, more or less, to the point of beginning on said Southerly side of said Larrabee Road.

Reference is also hereby made to two certain Indentures, one being dated March 29, 1915, between Guy L. Spear and Frank M. Hyde, recorded in the Androscoggin County Registry of Deeds, Book 260, Page 50 and the other being dated March 31, 1915, between said Guy L. Spear and Emma J. Hyde, recorded in said Registry of Deeds, Book 265, Page 89, insofar as they may apply to and pertain to the within described and conveyed premises, both of them having to do with certain water pipe rights, this conveyance also includes an easement for the purpose of maintaining a water line and replacing or repairing the same and the duty in connection therewith as was more particularly set forth and contained in a certain warranty deed given by said Richard A. O'Connell to Thomas E. Day, Jr. dated June 5, 1964 and recorded in said Registry of Deeds, Book 917, Page 4.

Poor Copy At Time Of Recording  
Will Not Reproduce Clearly

RECEIVED  
ANDROSCOGGIN COUNTY

94 NOV -3 AM 9:00

ATTORNEY:

*Thomas E. Day, Jr.*  
REGISTER OF DEEDS

#1



#2



#3

