

Town of Landgrove  
88 Landgrove Road  
Landgrove, Vermont 05148

**Zoning Board of Adjustment  
NOTICE OF DECISION  
Application for a Variance    12 April 2017**

Applicants:	Bruno and Mary Licata
Landowner(s)	Bruno and Mary Licata
Project Location:	78 Nichols Road
Application No.:	17-02-23
Parcel ID:	05 00 06

**INTRODUCTION AND PROCEDURAL HISTORY**

1. This proceeding involves the review of an application for a front yard setback variance request submitted by Bruno and Mary Licata under the Town of Landgrove, Vermont Zoning Bylaws, as adopted 13 July 2006.
2. The application was received by the Zoning Administrator on 23 February 2017. A copy of the application is available at the Landgrove Town Office.
3. The notice of public hearing was published in the *Chester Telegraph*, the *Vermont Journal*, and was posted on the town's website and on the message board located at the entrance to the Town Office.
4. A copy of the notice of public hearing and information concerning the application was mailed to all abutting property owners.
5. The following members of the Planning Commission / Zoning Board of Adjustment were present at the public hearing:
  - Charles Sweetman, Chair
  - Leigh Adams
  - Jerald Hassett
  - Harry Lux
  - Michael Morfit
  - Michael Mole

6. At the outset of the hearing, the ZBA afforded an opportunity for persons wishing to achieve status as an interested person under 24 VSA §4465(b) to demonstrate that the criteria set forth in the subsection are met. The ZBA granted interested person status to the following:

Bruno Licata

Mary Licata

All interested parties were sworn in by the Board Chair at the beginning of the public hearing.

7. During the course of the hearing the following documents / exhibits were submitted to the ZBA:

Application for a Zoning Permit

Tax Map

Photographs of the property and of the existing building

Dimensioned drawings of proposed addition

These exhibits are available for review at the Landgrove Town Office.

8. No formal site visit was scheduled. The property is visible from the town road and ZBA members were encouraged to inspect the site at their convenience.

## **FINDINGS OF FACT**

1. According to the Landgrove Zoning Administrator and the Landgrove Zoning Bylaws, the application requires review under the following section of the zoning bylaws:

Section 144 Variances (141. a. – e.)

2. The applicant seeks a zoning permit for the construction of a 40' x 86', 2 story residential addition and adjoining barn to the side of the applicant's existing 4.0 +/- acre residential property located at 78 Nichols Road, Tax Map Parcel #05 00 06, in Landgrove.

3. Town of Landgrove Zoning Bylaws require a minimum frontline distance of 75 feet measured from the roadway centerline to the nearest wall of the proposed building.

4. The applicant requests approval to construct this addition with a setback of approximately 58' to the centerline of the town road – a deficiency of 17 feet from the required setback. Side and rear setbacks meet the zoning requirements.

5. The applicant's residence is presently located closer than the required 75 feet from the roadway centerline. The residence is considered to be a pre-existing, non-conforming use and the proposed addition will result in a minor additional nonconformance.

## CONCLUSIONS

In conformance with the Town of Landgrove Zoning Bylaws in effect on this date, Section 140, in order to grant a variance, the Board shall find that five specific facts are found to exist. In summary, these five criteria are as follows:

*a. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or physical condition peculiar to the particular property, and that unnecessary hardship is due to the 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;*

**Conclusion a:** Parcel #17 02 23 is a pre-existing lot of 4.0 +/- acres and is bordered by a town road and receives stormwater flows from the road and from the hillside to the rear that have created an area of the subject property that is no longer suitable for construction.

*b. Because of the physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions or these regulations and that the authorization of a variance if necessary to enable reasonable use of the property*

**Conclusion b:** The premises constitute a small lot which pre-existed the zoning bylaws and which is burdened by stormwater flows from the adjacent town road as well as from the hillside to the rear. This variance is needed to enable the reasonable use of the property.

*c. That the unnecessary hardship has not been created by the applicant.*

**Conclusion C.** The applicant is not responsible for the current proximity to the town road nor for the stormwater flows that have made much of the property unbuildable.

*d. That the variance, if authorized, shall 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 the renewable energy resources, or to be detrimental to the public welfare*

**Conclusion d.** The Board concluded that the proposed project will not have an undue adverse effect on the character of the neighborhood, as defined by specifically stated policies and standards of the municipal plan, the residence pre-dates zoning and there are several nearby residences that are similarly located closer to the centerline of the town road than the required 75 feet.

*e. That the variance, if authorized will represent the minimum that will afford relief and will represent the least deviation possible from the regulations and from the plan*

**Conclusion e:** The Board has concluded that the applicant's documents and drawings depict the minimum variance required to construct the attached residential addition and the barn.

## DECISION AND CONDITIONS

At a deliberative session held on 12 April 2017, and based on the foregoing Findings of Fact and Conclusions of Law, the Zoning Board of Adjustment by unanimous vote of the members approve the application # 17 02 23 subject to the following conditions:

1. The project shall be completed as depicted on the submitted drawings.
2. All reasonable efforts shall be made to protect existing vegetation and to plant additional trees and shrubs so as to further shield the new construction.
3. The applicant will consult with the Landgrove Road Commissioner concerning the location, design, and construction materials involved with the proposed new access to the property from Nichols Road
4. Any deviation from the permit shall constitute a violation and the Zoning Administrator will be required to take enforcement action to correct the violation.

Dated at Landgrove, Vermont this 27<sup>th</sup> day of April 2017.

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Charles Sweetman, Chair

Zoning Board members participating in this Decision:

Charles Sweetman, Chair  
Leigh Adams  
Jerald Hassett  
Harry Lux  
Michael Morfit  
Michael Mole

NOTICE: This Decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceedings before the Planning Commission / Board of Adjustment. Such appeal must be taken within 30 days of the date of this Decision, pursuant to 24 VSA § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.