

**Town of Brighton**  
**Development Review Board**  
**Minutes of Hearing Held September 8, 2021**

**Re: Alec & Darcie Orlowski**

Application No. 21-21

A public hearing pursuant to Section 509(Variances) as it relates to Section 210(3) Lake District, of the Town of Brighton Zoning Bylaws was held September 8, 2021 on the above entitled application for a Site Plan Review/ garage construction permit as filed by Alec & Darcie Orlowski. The completed new construction is at 78 Island View Drive., Island Pond, Vermont. Due notice of said hearing was provided to the following adjacent property owners:

Ralph H Dodge  
Clifford Biron Trustee  
Lakeside Camping LLC  
Janet Dyer  
Peter, Jane, Timothy, Trudy Dale  
Christopher & Joanne Nilson

Notices were mailed by Certified Return Receipt on August 24, 2021.

Public Notice was posted in three locations in town, namely, the Town Clerk's Office, and the bulletin boards outside the Island Pond Post Office and the Railroad Depot Building. It was also published in the Caledonian Record.

A site visit was held at subject property on September 8, 2021 at 2:30 p.m., with board members Pete Pedersen, Stacey Roese, Alan Magoon, Alan Wing, Michael Clarke, and Margaret Muraca (clerk). The applicants, Alec and Darcie Orlowski were present. Others present included Bruce Webster, Maurice Barnes, Ralph Dodge, Michael Strait, Joel Cope, Kathleen Dodge and Shawn Thibodault.

At the site, Alec Orlowski confirmed that the newly constructed garage did not meet the defined set backs. Ralph Dodge, an abutter presented his concerns regarding the property size, boundary lines and the current placement of the building, that did not meet the defined 30 ft setbacks on the back two corners of the garage. Board members viewed the site which appears

to have less than the required 30 ft setbacks (rear corners). It was noted that the minimum setbacks for the Lake District is 30 ft ( side,front and rear). There were no issues with the front and side setbacks. Measurements were made that confirmed that the corners measured 24 ft and 16 ft from the property line; confirming the requested need for a 6 ft and 14 ft variance. Members of the board viewed the site and acknowledged the request for a 6 ft and 14 ft variance for the rear of this newly constructed garage.

The public hearing was called to order at 3:15 p.m. by Pete Pedersen, Chair, with all the above named board members present. Alec and Darcie Orłowski(applicants) were present. Abutters, public officials, and general public present included: Joel Cope (Town Administrator), Michael Strait (Town Selectboard), Ralph H Dodge, Maurice Barnes, Robert Dyer, Janet Dyer, Bruce Webster, Ralph C. Dodge, Kathleen Dodge and Alex Biron (via phone participation).

Board member, Stacey Roese,read the warning that was publicly posted.

It was noted that the application was dated July 23, 2021 and referred to this Board on July 23, 2021, by the Zoning Administrator for a site plan review.

Alec and Darcie Orłowski (applicants) and all other above named non-board participants were sworn in by Pete Pedersen.

## **S509 Variances**

The Development Review Board shall hear and decide requests for variances in accordance with 24 V.S.A.s 4469(a)and appeal procedures under s508 of this bylaw. In granting a variance, the Development Review Board may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of these regulations and the municipal plan currently in effect. The Development Review Board may grant a variance and render a decision in favor of the appellant only if all of the following facts are found and the findings are specified in its written decision:

- (1)There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other conditions peculiar to the particular property, and that unnecessary hardship is due to these 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;
- (2)Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these regulations and that the authorization of a variance is necessary to enable the reasonable use of the property;
- (3) The unnecessary hardship has not been created by the appellant;
- (4) The variance, if authorized, will 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 renewable energy resources, or be detrimental to the public welfare; and
- (5) The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.

Joel Cope gave a brief summary of the components/history of this application, which included a Notice of Violation. Ralph H Dodge presented his concerns; with a packet of information and the use of poster boards, photos, surveys, documented communications and a review of the Town Bylaws-Specifically the 509 Variances. Individual comments were made by: Michael Strait, Bruce Webster, Maurice Barnes. Janet Dyer, Robert Dyer, and Alex Biron; collectively indicating a "No" vote to the granting of a variance. Alec and Darcie Orłowski admitted to "making a mistake" and apologized. It was stated by Joel Cope, that if a variance is granted/ or is not granted by the Development Review Board, the decision goes to the Towns Selectboard and subsequent action may be taken by them.

All non-board members of the convened group were then excused and the deliberative session was convened. ( 5 pm) After some discussion the board members agreed to reconvene on Wed. September 15, 2021; giving them the opportunity to review the presented materials and give thought to this request for a variance. Adjourned at 5:15 pm on 9/8/2021.

Deliberative session reconvened on 9/15/2021 @ 10:15 am. Board members present were Pete Pedersen, Alan Wing, Stacey Roese, Michael Clarke, and Margaret Muraca (clerk).

Recognizing that a variance can be granted only when all five (5) components of the s509 Variances are met; the membership reviewed the application of each to this application/ situation. It was determined that "unique physical circumstances or conditions", did not exist; and the defined setbacks (30 ft) could have been met. In addition, it appears that the authorization of a variance is not necessary to enable the reasonable use of the property.

A motion was made (Margaret Muraca), and seconded by Alan Wing to DENY the application/ request for a variance. A unanimous vote was taken by the membership.

The board voted unanimously to DENY the request.

The meeting was adjourned at 10:45 a.m.

Dated at Brighton(Island Pond), Vermont this 15th day of September 2021.

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Margaret Muraca, Clerk  
Development Review Board  
Town of Brighton

cc: Pete Pedersen  
Alec & Darcie Orłowski, Applicant  
Town of Brighton, Clerks Office  
Joel Cope, Town Administrator/Zoning Administrator

## **Findings of Facts**

The following facts were found at the public hearing held September 8, 2021.

1. The hearing was called to order by the Chair at 3:15 p.m. and it was noted that the site visit was made by the Board Members and others as previously named.
2. The warning was read by board member Stacey Roese.
3. Alec and Darcie Orłowski (applicants), were sworn in by Pete Pedersen, Chair. Also sworn in were : Joel Cope, Michael Strait, Bruce Webster, Ralph H Dodge, Maurice Barnes, Janet Dyer, Robert Dyer, Alex Biron, Ralph C Dodge, & Kathleen Dodge.  
The Chair asked Board Members if they had any questions or concerns.
4. The requirements found in Sec 509 of the Town of Brighton Zoning Bylaws relative to the existing garage and necessary variance were discussed. The Development Review Board may render a decision in favor of the appellant only if all of the delineated facts are found and the findings are specified in its written decision (see previously stated Sec 509 facts).

The Board determined that the application submitted does not meet all of the requirements stated in s509 Variances. As such, the Board finds that the requested variance is denied.

## **Conclusion of the Law**

The following conclusions were determined from the public hearing held on September 8, 2021:

Per the town's Zoning map the subject property is located in the "Lake" District in Sec. 210(3) of the Zoning Bylaws.

Further, Sec. 509 of the Zoning Bylaws provided the safeguards the Board is to take into consideration when reviewing site plans and the Board finds that all issues/facts presented do not support the granting of a variance.

### **Deliberative Session**

The deliberative session followed the public meeting with the same board members in attendance.

Following discussion of the applicants' request for a Site Plan Review/Variance, the following motion was made :

Margaret Muraca made the motion to deny the variance, for the existing garage at the property at 78 Island View Drive, subject to criteria under Section 509, of the Zoning Bylaws. Alan Wing seconded the motion. The Board voted unanimously to DENY the request.

The deliberative session closed at 10:45 a.m. on September 15, 2021

Dated at Brighton(Island Pond), Vermont this 15th day of September 2021.

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Margaret Muraca, Clerk  
Development Review Board  
Town of Brighton

cc: Alec & Darcie Orlowski, Applicants  
Pete Pedersen, Chair DRB  
Town of Brighton, Clerks Office  
Joel Cope, Town Administrator, ZA

**Town of Brighton  
Development Review Board**

RE: Alec and Darcie Orlowski  
78 Island View Drive  
Island Pond, Vermont 05846  
Application # 21-21

**Decision**

A public hearing pursuant to Section 509 of the Town of Brighton Zoning Bylaws was held September 8, 2021 on the above entitled application for a Site Plan Review/Zoning permit as filed by Alec & Darcie Orlowski; for a variance for a newly constructed garage at 78 Island View Drive, Island Pond, Vermont.

Notice of said hearing was provided to the following adjacent property owners identified by the applicant:

Ralph H Dodge  
Clifford Biron Trustee  
Lakeside Camping LLC  
Janet Dyer  
Peter, Jane, Timothy, Trudy Dale  
Christopher & Joanne Nilson

Notices were mailed by Certified Return Receipt August 24, 2021. Public notice of said hearing was posted in three locations in town, namely the Town Clerk's Office, bulletin boards outside the Island Pond Post Office and the Railroad Depot Building; and published in the Caledonian Record.

A site visit on September 8, 2021 preceded the public hearing. Board members who visited the site were Pete Pedersen, Alan Magoon, Stacey Roese, Alan Wing, Mike Clarke and Margaret Muraca(clerk). Also present were Alec and Darcie Orlowski (applicants); Joel Cope, Michael Strait, Bruce Webster, Ralph H Dodge, Kathleen Dodge, and Shawn Thibodault.

The public hearing followed the site visit with the above named board members in attendance, as well as Alec and Darcie Orlowski (applicants); Joel Cope(Town Administrator), Michael Strait, Bruce Webster, Ralph H. Dodge, Maurice Barnes, Janet Dyer, Robert Dyer, Ralph C Dodge, and Kathleen Dodge. The deliberative session extended to 9/15/21. In a unanimous vote the Development Review Board Members:

Pete Pedersen  
Stacey Roese  
Michael Clarke  
Alan Wing  
Margaret Muraca

voted to DENY the site plan/variance concerning the property located at 78 Island View Drive, Island Pond, Vermont.

### **Appeal Rights**

**If you should disagree with the Board's Decision, you may appeal to the Environmental Court. Such appeal must be made within thirty(30) days of the date of the decision. Failure to appeal within this thirty (30) day period will result in the loss of your appeal rights and this Decision shall be considered final.**

**Dated at Brighton (Island Pond) Vermont this 15th day of September 2021.**

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Margaret Muraca, Clerk  
Development Review Board

cc: Alec & Darcie Orłowski, Applicant  
Pete Pedersen, Chair, DRB  
Town of Brighton, Clerks Office  
Joel Cope, Town Administrator

