

ZONING BOARD MEETING
TUESDAY – NOVEMBER 24, 2015
ZONING BOARD
7:00 P.M. – TOWN HALL – 1529 NYS RTE 12
BINGHAMTON – NEW YORK – 13901

PRESENT: Mr. Donald Phillips, Chairman
Messrs. Doolittle, Ruston, & Waskie
Ms. Kinne

ALSO PRESENT: Donald G. Walls, Esq. - Town Attorney
Tom Geisenhof, Assessor

ABSENT: Jim DiMascio, Councilperson

The meeting convened at 7:00 p.m. at which time Mr. Phillips called the meeting to order and welcomed the audience. Mr. Ruston read a statement which explained how the Zoning Board members are appointed, along with the Board's functions, limitations and duties. Mr. Ruston noted that the reading of this statement not only informs the audience about the Zoning Board of Appeals, but it also reminds the Board members of their responsibilities. Mr. Ruston also read the Notices of Publication for each case, which was duly published, as required by law, and as evidenced by Affidavits of Publication received and placed on file.

APPROVAL OF THE MINUTES

- Approval of the Minutes for October 27, 2015, Zoning Board Meeting.

A motion was made by Mr. Ruston, seconded by Mr. Waskie, to approve the Minutes of the October 27, 2015 Regular Meeting.

PUBLIC HEARINGS

- DONALD J KNAPP – 368 Kattelville Rd. – TM#078.15-2-29 – Use Variance to convert an existing commercial building into a duplex in a NC zone.

Mr. Walls conducted the Public Hearing.

Mr. Walls – The location of this property is it at the end of Kattelville Road where it almost meets Upper Front St.?

Mr. Knapp – Correct.

Mr. Walls – It's the old McGowan building?

Mr. Knapp – Correct.

Mr. Walls – Briefly tell us what your intentions are. You want to convert this to a two-family?

Mr. Knapp – Correct. The building is split up currently. It was an existing house that they put an addition on one end. That's where he wants to divide the building. One would be a two bedroom and the other a three bedroom. There is plenty of parking.

Mr. Walls – The first floor as it exists right now was that office space?

Mr. Knapp – Yes.

Mr. Walls – You are going to convert two floors?

Mr. Knapp – Half of the building, the northern end of the building, is a two story. It was an existing two story house. The southern end is a one story which was office space.

Mr. Walls – We have your floor plans so we won't go over that but generally the renovation you want to do is it going to change any of the setbacks – side or front? Is the height going to change?

Mr. Knapp – No. The setbacks or height won't be changing.

Mr. Walls – Is the property served by a sewer system?

Mr. Knapp – Yes.

Mr. Walls – It doesn't discharge into the creek?

Mr. Knapp – No there is a tank behind the building. The tank has always been there and it functions.

Mr. Walls – This is for your own personal use or are you going to rent out the apartments?

Mr. Knapp – He would be the landlord and rent them out.

Mr. Walls – Both of them will be rented out?

Mr. Knapp – Yes.

Mr. Walls – Anything else you'd like to tell the Board?

Mr. Knapp – Feels there will be less traffic than what was there when it was a business. Won't change the exterior of the building – no additions so the setbacks won't change.

Mr. Walls closed the Public Hearing.

Mr. Geisenhof, Ordinance Office, recommends approval with a building permit being required.

Mr. Phillips read the following correspondence.

Broome County Planning has reviewed the above cited case and has not identified any significant countywide impacts associated with the proposed project. They make no determination as to whether the applicant meets the four (4) tests of a use variance. They recommend that the project include landscaping.

Broome County Health has no comment.

Drainage Coordinator recommends approval.

Urda Engineering recommends approval with a building permit and code compliance being required.

Town Planning recommends a favorable advisory with a building permit being required.

- JOSHUA B. BOND – 306 Ransom Rd. – TM#094.04-2-14 – Area Variance to allow an accessory building in front of the principal use in a residential zone.

Mr. Walls conducted the Public Hearing.

Mr. Walls – Tell us why you can't put the shed behind the principle structure so it complies with the zoning code.

Mr. Bond – The layout of the land – hill and cost to remove dirt from the hill – financial constraints. Wants to place the shed where it is flat and currently there is a spot that is flat and has a gravel base. It is also a convenient location.

Mr. Walls – So you have a topographical problem.

Mr. Bond – Correct. It would make it hard to access it.

Mr. Walls – How far is the house setback from the proposed shed?

Mr. Bond – The house is about 60’ from the shed. The shed would be about 100’ from Ransom Rd. and about 400’ from Rte. 11.

Mr. Walls – Please describe the shed.

Mr. Bond – It is 14’ x 20’ and he is considering using wood siding. His future plan is to side the garage and house with wood. He was not going to match the shed siding now but would match everything in the future.

Mr. Walls – What is the intended purpose.

Mr. Bond – For personal storage like lawn mowers etc.

Mr. Walls – How high is the shed?

Mr. Bond – Will be 8’ on one side and 10’ on the other.

Mr. Walls – Anything else you’d like to tell the Board?

Mr. Bond – No.

Mr. Joseph Morris, 267 Ransom Rd. – Has lived on the road for 35 years. Has seen a lot of people come and go. Josh is a new neighbor and what he has been doing with his property has been an improvement. He hopes this board approves the variance as he is in favor of it.

Mr. Walls closed the Public Hearing.

Mr. Geisenhof, Ordinance Office, recommends approval with a building permit being required.

Mr. Phillips read the following correspondence.

Broome County Planning has reviewed the case and has not identified any significant countywide impacts associated with the proposed project

Town Planning recommends a favorable advisory with a building permit being required.

Urda Engineering recommends a favorable advisory with a building permit being required.

Drainage Coordinator recommends approval.

- JOHN J TREMARK III – 73 Grant Rd. – TM#111.12-6-18 – Use Variance to allow chickens in a residential zone.

Mr. Walls conducted the Public Hearing.

Mr. Walls – How long have you had chickens?

Mr. Tremark – Had them about 2 – 2½ years.

Mr. Walls – During that time have you had any complaints from your neighbors?

Mr. Tremark – No one has come to him about it.

Mr. Walls – Do you raise these chickens for commerce or for your own pleasure?

Mr. Tremark – His daughter likes them and they eat the eggs.

Mr. Walls – Do you supply eggs to the neighbors?

Mr. Tremark – Every once in a while.

Mr. Walls – How many chickens do you have?

Mr. Tremark – Eight.

Mr. Walls – Where do you keep them.

Mr. Tremark – They are in a fenced in area that is inside another fenced in area in the backyard on a pretty sloped hill. They have an 8' x 4' chicken coop which is elevated up off the ground.

Mr. Walls – Do they have a run so they can go in and out?

Mr. Tremark – Yes.

Mr. Walls – In connection with chickens there is a certain amount of waste – how do you handle that?

Mr. Tremark – The waste is actually pretty good for fertilizing. Clean it up and mix it in with the compost.

Mr. Walls – If you get an accumulation do you take it off premises?

Mr. Tremark – Honestly eight chickens don't come even close to having an accumulation that you have to worry about. It's a pretty small scale.

Mr. Walls – Chicken feed – where do you store it?

Mr. Tremark – In the house.

Mr. Walls – Sometimes chicken feed draws rodents or pests. Any experience with that?

Mr. Tremark – Not any more than they had prior to it.

Mr. Walls – Mr. Phillips made a remark to the roosters. You are not going to have any roosters are you?

Mr. Tremark – No.

Mr. Walls – Have the chickens ever wandered out of your compound?

Mr. Tremark – They have initially gotten out a couple of times when they were smaller. They've made some improvements to the enclosure and they haven't been out since. Took a little while to figure out where they were getting out then they rectified the situation.

Mr. Walls – Any other information you'd like to supply the Board?

Mr. Tremark – Nothing unless someone else has questions.

Mrs. Debra Denney, 71 Grant Rd. – The chickens have gotten out and into her yard. The fence surrounding her yard is owned by her. The current enclosure where the chickens are is an encroachment on her property. She has copies of surveys if you'd like to see them that show the encroachment.

Mr. Walls – When you say the pen/fence/enclosure encroaches?

Mrs. Denney – Yes.

Mr. Walls – Have you done anything about that?

Mr. Tremark – It does encroach. She actually signed an agreement with the lawyer when they purchased the property.

Unknown Female – It's all pre-existing.

Mrs. Denney – They have attached their fence to her fence on her property without her knowledge or consent. Her fence was put up to keep her dogs in the yard. Not to keep chickens out of her yard. She's gone up there to try to do yard work along the fence and the chickens have stuck their heads through the fence and pecked her in the arm.

Mr. Walls – So you are opposed to this application?

Mrs. Denney – Yes.

Ms. Leona Robertson, 103 Grant Rd. – Was here several years ago for the Bennett's chickens. They do not bother her, they do not get out, and she enjoys watching them. Know the last time she was here the Board asked about the odor – there is no odor from the chickens. Rarely hear them and at that time they had ten. She sees nothing wrong with the chickens.

Mr. Dale Smith, 75 Grant Rd. – He lives next door. Has been there three years and there is no odor, no noise, no problem with the chickens, and has never seen the chickens out. He has more problems with her kids in his yard.

Mr. Walls – Okay thank you.

Mrs. Sharon Leahy, 339 Dorman Rd. – resides about three houses over from the chickens. She has no problem with the chickens they don't bother her. It's been established there is no rooster. She's watched the birds they are not doing anything.

Mr. Brian Leahy, 339 Dorman Rd. – She speaks for him.

Mr. Walls – Just one comment with regards to the encroachment. Don't want to debate over that but what's the status.

Mr. Tremark – When they purchased the property it was all pre-existing (already there) and she and the former owner of the property – there was a slight encroachment on either end and they both signed off on it that they were fine and they could stay the way they were.

Mr. Walls – Anyone else care to comment on this application.

Mrs. Kara Tremark ,73 Grant Rd. – They haven't added any fencing. They added literally this much chicken wire to the very bottom of the fence. There's not an actual second fence on the fence.

Mrs. Denney – Right but you've added to the bottom of her fence on her property.

Mrs. Tremark – There was a gap when the chickens were babies they were smaller they were getting out underneath, so they added the chicken wire and she had no problem with it. She's

never come to us with any problems with it. They actually put logs along the bottom of the fence and her kids kept kicking them out so they would get out again. That's when she put the fencing along the bottom. Also she has never seen her chickens peck anyone. Can't attest to her but when other people come up they shy away from them because they don't know them. They will only come up to her. If anyone goes along side of the fence they run to the other side.

Mr. Smith – Would like to add as far as pecking about two weeks ago on a Saturday he walked out back to walk his dog, he looked up and her (Denney's) youngest boy was up behind the wire swinging sticks at the chickens. He yelled at him – he doesn't belong up there – doesn't live there. He finally dropped the stick and left.

Mrs. Denney – When the chickens have gotten into her yard they come through her gate into her yard to get them without letting her know.

Mr. Walls closed the Public Hearing.

Mr. Geisenhof, Ordinance Office, recommends approval with the condition that the number of chickens be limited to 12 and the variance terminates upon transference of the deed.

Mr. Phillips read the following correspondence.

Broome County Planning has reviewed the above cited case and has not identified any significant countywide impacts associated with the proposed project. They make no determination as to whether the applicant meets the four (4) tests of a use variance. They recommend that the project does not result in noise or odor impacts to the surrounding residential properties. They recommend that any approval include a condition limiting the number of chickens that can be kept onsite at any given time.

Town Planning recommends a favorable advisory with the stipulation limiting the number of chickens to 12, no roosters, noise and odor be maintained per Town Code and variance terminates upon the sale or transfer of the deed.

Urda Engineering recommends approval with the condition that noise and odor be maintained per Town code, recommends the Ordinance Office have letters from neighbors on file, and limiting the number of chickens to 12.

NEW BUSINESS

- GRANDE RESTAURANT – Vincenzo Altadonna – Use Variance to allow a steel storage container permanently behind the Northgate Plaza.

RECOMMENDATION

The Ordinance Office finds this application to be complete and would recommend the Board accept and schedule the Public Hearing for December 15, 2015.

A motion was made by Mr. Ruston, seconded by Mr. Waskie, and unanimously carried to accept this application for Use Variance to allow a steel storage container permanently behind the Northgate Plaza.

ROLL CALL: AYES – 5 NAYS – 0

Mr. Michael Haas, Architect for Mr. Altadonna, submitted a letter from the owner of Northgate Plaza, Mr. Peter Nalitt, in support of the Use Variance and granting permission to have the storage trailer.

VOTES ON PUBLIC HEARINGS

- DONALD J KNAPP – 368 Kattelville Rd. – TM#078.15-2-29 – Use Variance to convert an existing commercial building into a duplex in a NC zone.

A motion was made by Mr. Waskie, seconded by Mrs. Kinne, and unanimously carried to approve this application for a Use Variance to convert an existing commercial building into a duplex in a NC zone.

ROLL CALL: AYES – 5 NAYS – 0

Mr. Waskie – In the Broome County letter they do recommend that some type of landscaping be added for a residential feel.

Mr. Phillips – Did you hear that Mr. Knapp – a few shrubs. He is very familiar with the building and he has put a lot of money into it. He has renovated the building back into a very usable space.

- JOSHUA B. BOND – 306 Ransom Rd. – TM#094.04-2-14 – Area Variance to allow an accessory building in front of the principal use in a residential zone.

A motion was made by Mr. Waskie, seconded by Mr. Doolittle, and unanimously carried to approve this application for an Area Variance to allow an accessory building in front of the principal use in a residential zone.

ROLL CALL: AYES – 5 NAYS – 0

- JOHN J TREMARK III – 73 Grant Rd. – TM#111.12-6-18 – Use Variance to allow chickens in a residential zone.

A motion was made by Mr. Ruston, seconded by Mr. Doolittle, and unanimously carried to approve this application for a Use Variance to allow chickens in a residential zone with the following conditions –

- No more than (12) twelve chickens
- No roosters.
- Additional section of fence is installed to keep chickens on property.
- Use variance terminates upon transference of deed.

ROLL CALL: AYES – 5 NAYS – 0

Mr. Tremark – It is possible to add a section to the fence but he would have to detach the fence from her fence as it's actually a chain link fence. Her fence acts as one of the borders and as long as he can detach it he doesn't have a problem with it.

Mr. Ruston – Thinks it would be best to do that just to clear the issues. The other condition is no roosters.

Mr. Geisenhof – Can someone add if he moves.....

Mr. Phillips – Please add if the gentleman moves the use variance goes away.

Mr. Waskie – Instead of “moves” can it say upon the sale or transfer of the deed because he can move and still own it. Regarding the fence should it be moved?

Mr. Tremark – Since there is an encroachment he'll move it back to the property line.

ADJOURNMENT

There being no further business before the Board, a motion was made by Mr. Waskie, seconded by Mrs. Kinne, to adjourn the meeting at 7:36 p.m.

Respectfully submitted,

Nancy Schnurbusch,
Recording Secretary