

ZONING BOARD MEETING
TUESDAY – MARCH 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, & Grannis
Ms. Kinne, Alternate

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

ABSENT: Mr. Waskie, ZBA Member

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 February 24, 2015, Zoning Board Meeting.

A motion was made by Mr. Doolittle, seconded by Mr. Grannis, to approve the Minutes of the February 24, 2015 Regular Meeting.

ROLL CALL: AYES – 5 NAYS – 0

PUBLIC HEARINGS

- WILLIAM & BEVERLY CHILSON – 5 Matthews Rd. – TM#112.05-3-19 – Application for a Use Variance to allow a mobile home in a residential zone.

Mr. Walls conducted the Public Hearing.

Mr. Walls - Why do you want to put another unit on the property? Understand there has been damage to the main house.

Mr. William Chilson (son) - A tree came through the roof.

Mr. Walls - Was there substantial damage?

Mr. Chilson - Correct.

Mr. Walls - Is it repairable or financially it's not feasible to repair that unit.

Mr. Chilson - They would have to put more money into it than it is really worth.

Mr. Walls - Your plans, according to the application, is to remove the unit plus a garage.

Mr. Chilson - That's correct.

Mr. Walls - The new unit is a mobile home? Is it HUD or BOCA approved? Also what is the dimension of the new unit.

Mr. Chilson - Not sure about HUD or BOCA but it's new and he believes it will be 28' x 44'.

Mr. Walls - Are you going to place the new unit on the same footprint as the other unit or different location?

Mr. Chilson - A different location.

Mr. Walls - Understand from the elevation certificate you are in the flood plain. Will the unit be placed on a foundation – cement or cinder block? Will you be building the foundation so it's above the FEMA floodplain?

Mr. Chilson - The foundation will be a cement slab with cinder block foundation. Yes the foundation will be above the FEMA floodplain.

Mr. Walls - Could you build a stick built house instead of the mobile home? Would that be a financial hardship?

Mr. Chilson - The cost would be substantially more.

Mr. Walls - What impact would this have on the neighborhood? Are there any other units in the area?

Mr. Chilson - There are mobile homes down the hill.

Mr. Walls - You keep referring to this as a trailer. Does it have any mobile features – like wheels?

Mr. Chilson - It comes in on wheels – two sections and then they put it together.

Mr. Walls - Will there be skirting around it?

Mr. Chilson - There will be cinder block all around it.

Mr. Walls - What is your schedule as far as removal of the unit and garage. Do they need to be removed before you can bring the new one in?

Mr. Chilson - Would like to tear down everything first and then bring the new one in. Would like to start by May.

Mr. Walls - Anything else you'd like the Board to know?

Mr. Chilson - No.

Mr. Geisenhof, Ordinance Office, recommends approval of the use variance to allow a mobile home in a residential zone with a demolition, building, and flood plain permits.

Mr. Walls closed the Public Hearing.

Mr. Phillips, ZBA Chairman, read the following correspondence.

Broome County Planning this site is located entirely within the existing FEMA 100-year floodplain and partially within the preliminary new FEMA 100-year floodplain.

Urda Engineering recommends approval with the following comments –

- Building permit is required.
- Project is within a 100-year floodplain and recommends the structure be set at an elevation exceeding the higher of either the existing or preliminary FEMA firm.
- Project is within an aquifer protection zone 1 “wellhead protection zone”.

Drainage Coordinator recommends approval.

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

- FRANK ZMITROWITZ – 47 Dorman Rd. – TM#111.01-1-19 – Application for an Area Variance to reduce the minimum lot width from 240' to 35.35' in an agricultural zone.

Mr. Walls conducted the Public Hearing.

Mr. Walls - Understand you donated land to the Chenango Fire Co.

Mr. Zmitrowitz explained he donated a side parcel to the fire company which is – 47 Dorman Rd. He has a R.O.W. – permanent easement for egress. To the right and left there are two 2 acre parcels that have two buildings. The fire company has the parcel behind the east parcel. He actually has 20.5 acres which is between Sky View Lane and Dorman Rd.

Mr. Walls - What other means of access do you have.

Mr. Zmitrowitz - 35' .35" on Dorman Rd. is the only means of access. There is no other means.

Mr. Walls - What are your intentions?

Mr. Zmitrowitz - Plans on putting in a modular cape cod. Owned land since 1986 – has built a pond and has made land improvements over the years. Already has a macadam road. Resides on Wilson Hill Rd. Plans on selling that and then plans to build a cape cod on this parcel if the variance is approved.

Mr. Walls - What is your schedule if this is approved.

Mr. Zmitrowitz - Would be later this year as he needs to sell his house.

Mr. Walls - You understand the access road is to remain private. The Town is not going to have any responsibility.

Mr. Zmitrowitz -That is correct.

Mr. Walls - Is there anything else you'd like to tell the Board?

Mr. Zmitrowitz explained he's already improved the site – road in place and site is cleared which cost him about \$25,000. The new house will be around \$140,000. There's an easement so if the fire company decides to build the pump station, which is why he donated half an acre. Utilities will be in place as well – natural gas and electric.

Mr. Walls - Any chance the fire company might donate the property back to you?

Mr. Zmitrowitz - Probably not.

Mr. Walls - Has the fire company improved their lot?

Mr. Zmitrowitz - No.

Mr. Walls - Do you have a reversion provision. If they don't use it it reverts back to you?

Mr. Zmitrowitz - No.

Mr. Geisenhof, Ordinance Office, recommends approval of the area variance.

Mr. Walls closed the Public Hearing.

Mr. Phillips, ZBA Chairman, read the following correspondence.

Broome County Planning has reviewed the case and has determined that the project is not subject to review as the project site is not located within 500' of any County interests.

Urda Engineering recommends the owner provide and maintain an access drive to the future residence which is suitable for emergency vehicle access should the need arise. A favorable advisory is recommended.

Drainage Coordinator approved.

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

- MICHAEL KASABIAN – 148 W. Chenango Rd. – TM#094.01-2-32 – Application for a Use Variance to allow a recreational vehicle in front of the front building line.

Mr. Walls conducted the Public Hearing.

Mr. Walls - Why can't you park the R.V. behind the front line to come into compliance with the ordinance?

Mr. Kasabian - Can't put a wheelbarrow through there. He has that much room between the house and the fence the neighbor put up (right side). The left side has the septic tank and lines.

Mr. Walls - No area to put it back there?

Mr. Kasabian - No.

Mr. Walls - Per a photo how many trailers do you have?

Mr. Kasabian - He has two a camper and a trailer. Usually he puts everything away for the winter but this year he didn't have time.

Mr. Walls - So you have a camper trailer and a utility trailer?

Mr. Kasabian - Yes.

Mr. Walls - The utility trailer is the one that you haul material?

Mr. Kasabian - Hauls bark mulch, boards, and his four wheeler.

Mr. Walls - So right now where's the camper trailer.

Mr. Kasabian - It's in Pennsylvania at his brother-in-laws house. It's stored there every winter.

Mr. Walls - So you store it off premises in the winter time.

Mr. Kasabian - That is correct. Usually it's at our house about five months out of the year.

Mr. Walls - So you are only asking that it is parked out front of the main building during the summer months. Which months?

Mr. Kasabian - Would like it from May to October.

Mr. Walls - This other trailer that's not going to be stored out front.

Mr. Kasabian - No. It will be in Pennsylvania or hitched to his truck. It will be up towards the house.

Mr. Walls - You can't have two trailers – only one – in front of the main building.

Mr. Kasabian - Okay.

Mr. Walls - That (utility trailer) will have to be off premises.

Mrs. Kasabian - What if we need to have them there at the same time? There's going to be days when we may need them there at the same time.

Mr. Walls - That's not what your application said. So it's understood the camper will be there during the summer months and you will provide another location for the utility.

Mr. Kasabian - Okay.

Mr. Walls - Is there anything else you'd like to tell the Board?

Mr. Kasabian - His goal is to get ten feet from the neighbor so he can get things along the side of the house. His hands are tied at the moment.

Mrs. Kasabian - Some guy purchased the house and is flipping it. They did approach him several times and he wasn't receptive. Once the new people move in they hope to purchase a piece. For years they parked the camper next to the garage.

Mr. Kasabian - The camper has been there over twenty years. We take care of our property. Across the street doesn't look very nice.

Mr. Geisenhof, Ordinance Office, recommends approval on the condition that only one R.V. be forward of the front building line and that it be allowed from May 1st to September 30th.

Mr. Walls closed the Public Hearing.

Mr. Phillips, ZBA Chairman, read the following correspondence.

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

Urda Engineering explains that strict application of the provisions of this chapter would deprive the applicant of the reasonable use of the land. To achieve the applicant's interest the variance request is necessary for reasonable use and is a minimal request to achieve the use. The granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public. The location is rural in nature. A favorable advisory is recommended with Board consideration requested given the above noted comments. Consideration should be given to any variance being specific to the RV and expiring should ownership change or the vehicle no longer exists.

Town Planning recommends a favorable advisory.

NEW BUSINESS

- MICHAEL BREWER – Michael's Auto Sales – 226 East Hill Rd. – TM#066.10-1-37 – Application for a Double Area Variance for minimum lot size from 6 acres to 2.8 acres and minimum lot depth from 450' to 185'.

RECOMMENDATION

The Ordinance Office finds this application to be complete and would recommend the Board accept and schedule the Public Hearing for April 28, 2015.

A motion was made by Mr. Ruston, seconded by Mr. Grannis, and unanimously carried to accept this application for a Double Area Variance for minimum lot size from 6 acres to 2.8 acres and minimum lot depth from 450' to 185'.

ROLL CALL: AYES – 5 NAYS – 0

- JAMES & SUSAN BOHN – 21 S. Morningside Dr. – TM#128.11-5-10 – Application for an Area Variance to expand a driveway with less than required side yard setback from 10' to 1' in a residential zone.

RECOMMENDATION

The Ordinance Office finds this application to be complete and would recommend the Board accept and schedule the Public Hearing for April 28, 2015.

A motion was made by Mr. Grannis, seconded by Mr. Ruston, and unanimously carried to accept this application for an Area Variance to expand a driveway with less than required side yard setback from 10' to 1' in a residential zone.

ROLL CALL: AYES – 5 NAYS – 0

Mr. Bohn wanted the Board to know the setback will be two feet.

Mr. Walls explained that he will need to come into the Ordinance Office and amend his application.

Mr. Bohn explained he did take pictures of the survey pins and where the edge of the driveway will be. Originally thought it would be a foot from the property line but instead it will be two feet.

Mr. Doolittle, ZBA Member, with regards to the additional parking space from your driveway to your neighbors' property line. Are you going to put something permanent - storage for something?

Mr. Bohn explained no just widening the driveway. Down the side there are sidewalks and he wants to continue the driveway from the sidewalk to the road on one side.

Mr. Doolittle asked are you parking an RV?

Mr. Bohn explained no just parking his vehicle.

- MARTHA BUDINE – Bows & Bandanas – 17 Newman Ave. – TM#112.06-3-25 – Application for a Special Permit for dog grooming business.

RECOMMENDATION

The Ordinance Office finds this application to be complete and would recommend the Board accept and schedule the Public Hearing for April 28, 2015.

A motion was made by Mr. Doolittle, seconded by Mrs. Kinne, and unanimously carried to accept this application for a Special Permit for dog grooming business.

ROLL CALL: AYES – 5 NAYS – 0

Mr. Doolittle, ZBA Member, understands it's a shared driveway. How close is the property line to the building? Is it so narrow you can't get a car down without going on the neighbors' property?

Ms. Budine explained she was not sure about that.

Mr. Doolittle asked in the event that the line is closer than a cars width would you consider getting a right-of-way from the neighbor?

Ms. Budine - Probably.

Mr. Phillips, ZBA Chairman, it's going to be critical next month. You are hoping for success. One of items we look at is parking – access.

VOTES ON PUBLIC HEARINGS

- WILLIAM & BEVERLY CHILSON – 5 Matthews Rd. – TM#112.05-3-19 – Application for a Use Variance to allow a mobile home in a residential zone.

A motion was made by Mr. Ruston, seconded by Mr. Doolittle to approve the application for a Use Variance to allow a mobile home in a residential zone.

ROLL CALL: AYES – 5 NAYS – 0

Ms. Kinne, ZBA Member, wanted to know if the current home was connected to Town water and sewer.

Mr. Chilson explained that it was.

Mr. Doolittle, ZBA Member, felt this would be an improvement to the property.

Mr. Ruston, ZBA Member, agreed with Mr. Doolittle.

Mr. Phillips, ZBA Chairman, understand you are demolishing the existing garage as its caving in. Is it going to sit perpendicular?

Mr. Chilson - It will sit long ways not sideways on the property. It will be about three feet closer to the garage. That's the other reason why the garage is coming down.

Mr. Phillips - A definite improvement. Appears you will need to clear the lot. When will you start?

Mr. Chilson - As soon as the weather permits.

- FRANK ZMITROWITZ – 47 Dorman Rd. – TM#111.01-1-19 – Application for an Area Variance to reduce the minimum lot width from 240' to 35.35' in an agricultural zone.

A motion was made by Mr. Grannis, seconded by Ms. Kinne to approve the application for an Area Variance to reduce the minimum lot width from 240' to 35.35' in an agricultural zone.

ROLL CALL: AYES – 5 NAYS – 0

Mr. Ruston, ZBA Member, wanted to make sure that the documents are corrected as some of them refer the measurement in square feet and it should be in linear feet.

Ms. Kinne, ZBA Member, wanted to know if the natural gas from coming from NYSEG.

Mr. Zmitrowitz - Explained that it would be.

Mr. Phillips, ZBA Chairman, wanted to know how far back the house would be.

Mr. Zmitrowitz - Explained it would be about 700 feet back from the road.

- MICHAEL KASABIAN – 148 W. Chenango Rd. – TM#094.01-2-32 – Application for a Use Variance to allow a recreational vehicle in front of the front building line.

A motion was made by Mr. Doolittle, seconded by Mr. Ruston to approve the application for a Use Variance to allow a recreational vehicle in front of the front building line.

Mr. Ruston, ZBA Member, as Mr. Geisenhof stated we should restrict the period of time that it (R.V.) can be there.

Mr. Doolittle, ZBA Member, asked why should we do that.

Mr. Phillips, ZBA Chairman, explained it gives the Ordinance Office some leverage. If they go up in Nov. or Dec. and there it sits.

Mr. Doolittle - What's the problem if it's there.

Mr. Phillips - It is a problem. Need to enforce. If it's next door to you and you don't want it there.

Mr. Ruston - Fundamentally it's not supposed to be there.

Mr. Doolittle - It's quite away from the house and away from the neighbor's house.

Mr. Ruston - They've parked it down by the road; which is what we don't want.

Mr. Grannis, ZBA Member, personally doesn't want it by the road. Now you're in the line of sight to everyone. The neighboring houses are looking right at it.

Mrs. Kasabian - The way the property sits you can't see it until you get to the property. There's a tree upfront – a line of trees along the one side. We're on the bend of the road.

Mr. Grannis - Suggested they put a restriction on it – that would be a help.

Mr. Phillips - We have other people in the Town that are taking issue with this (R.V.). If we are giving a variance we need to restrict the time or we could be opening a can of worms. He's in favor of putting a restriction of time.

Ms. Kinne, ZBA Member, being this is a weather related situation – sometimes Oct. is beautiful and they may want to use the camper. Is the end of Sept. too soon?

Mr. Kasabian - Would like to have Nov. 1 as the deadline.

Mr. Grannis and Mr. Ruston – Both would rather have Oct. 31.

Mr. Phillips - We need to have an amendment to the motion – unless Fred will accept the restriction.

An amended motion was made by Mr. Grannis, seconded by Ms. Kinne to approve the

application for a Use Variance to allow a recreational vehicle in front of the front building line with the condition that the R.V. is permitted on the property from May 1 until Oct. 31.

Mr. Doolittle - Would like the R.V. there so they can use it whenever.

Mr. Ruston - Wanted to make sure the motion was limiting them for one trailer and the R.V. would be permitted from May 1 until Oct. 31.

Mr. Grannis - Would like to see the R.V. moved up the driveway. Up where the plow truck currently is. That would be more like a side yard.

Mr. Doolittle - Confirmed the shed was removed.

Mr. Phillips to Mr. Geisenhof - How can we enforce that – moving it up the hill.

Mr. Walls explained if they gave a distance that would help.

Mr. Phillips to Mr. Grannis - So how far up the drive do you want the R.V.?

Mr. Grannis - What about 30' from the road easement.

Mr. Walls suggested have them move it back beyond the required set back which is 30' according to the ordinance set back.

Mr. Kasabian wanted to know where he would measure for the set back line.

Mr. Walls - From the highway right-of-way.

Both Mr. Grannis and Ms. Kinne agreed to include two additional conditions to their amended motion.

An amended motion was made by Mr. Grannis, seconded by Ms. Kinne to approve the application for a Use Variance to allow a recreational vehicle in front of the front building line with the condition that the R.V. is permitted on the property from May 1 until Oct. 31, the second trailer must be removed from the site and the R.V. must be setback 30' from the road easement.

ROLL CALL: AYES – 5 NAYS – 0

Zoning Board of Appeals

March 24, 2015

ADJOURNMENT

There being no further business before the Board, a motion was made by Mr. Grannis, seconded by Mr. Doolittle, to adjourn the meeting at 7:55 p.m.

Respectfully submitted,

Nancy Schnurbusch,
Recording Secretary