

Board of Zoning Appeals
Training Session
June 22, 2015
Minutes

The Training Session was called to order by Chairman Stanard at 5:32pm.

PRESENT AT ROLL CALL: Mr. Bolek, Mrs. Cooper, Mr. Fritz, Mayor Renda, Mr. Stanard
ABSENT: Mr. Pogatschnik

Others Present: Margaret Cannon, Law Director, Sherri Arrietta, Clerk of Council

Mrs. Cannon conducted a training session regarding the issuance of variances.

Mayor Renda made a motion seconded by Mr. Stanard to adjourn the training session at 6:02pm.

ROLL CALL:

AYES: Mr. Bolek, Mrs. Cooper, Mr. Fritz, Mayor Renda, Mr. Stanard

NAYS: None

MOTION CARRIED

Board of Zoning Appeals
Public Hearing Meeting
June 22, 2015
Minutes

The Board of Zoning Appeals Meeting was called to order by Chairman Stanard at 6:03pm.

PRESENT AT ROLL CALL: Mr. Bolek, Mrs. Cooper, Mr. Fritz, Mayor Renda, Mr. Stanard
ABSENT: Mr. Pogatschnik

Others Present: Dave Strichko, Building Inspector, Margaret Cannon, Law Director, Jeff Filarski, Village Engineer, Sherri Arrietta, Clerk of Council

Mayor Renda made a motion seconded by Mrs. Cooper to approve the minutes from the Regular BZA Meeting of May 18, 2015.

ROLL CALL:

AYES: Mrs. Cooper, Mayor Renda, Mr. Stanard

NAYS: None

ABSTENTIONS: Mr. Bolek, Mr. Fritz

MOTION CARRIED

At this time, Mrs. Cannon administered the oath to those who wanted to speak at the hearing. Chairman Stanard declared the public hearing open at 6:04m.

John Hodgson

37940 Berkeley Lane

Area Variance:

Accessory Structure – Barn (Garage)

Mr. Ryan Sanders with Premier Custom Builders and Mr. John Brown, builder, were present at the meeting. Mr. Sanders stated that the reason for the variance request is because the square footage of the proposed two (2) outbuildings (garage and pavilion) will exceed the Code requirement by 880 sq. ft. One of the structures is a garage which will be used for equipment storage and the other structure is a pavilion for family use and will be located away from house. More than 50% of the pavilion structure is open.

Chairman Stanard declared the public hearing closed at 6:07pm

Mr. Stanard asked for clarification on the actual amount of the variance request and the size of the proposed structures. Mr. Sanders stated that the garage is 1232 sq. ft. and the pavilion is 648 sq. ft. Mr. Strichko clarified that the pavilion does not need the variance, but once the pavilion is built, there will not be enough of the allowed 1,000 square feet left in order to build the garage. Therefore, they need a variance in the amount of 880 sq. ft. in order to build the proposed 1232 square foot garage. Mr. Strichko stated that even though there is “open space” in the pavilion, the footprint under the roof still counts toward the total square footage.

Mrs. Cooper asked for clarification of the location of the buildings. Mr. Sanders stated that they will be located on parcel #3; the garage will be located near the house and the pavilion will actually be located at the other end of the parcel, away from the home. He pointed out the locations on the plan. Mrs. Cooper asked if the garage will only serve the home or if other family members will be using it as well. Mr. Sanders stated that it will be just for use of the members of this house but it will also be used to store equipment since the property is 12.5 acres.

Mr. Stanard informed the members that the size of parcel #3 is 12.67 acres, and is immediately adjacent to a parcel that is 4.76 acres and to the left of that and down the hill, is open space of 2.3 acres. There are three other parcels with intended residences, some of which already exist.

Mr. Stanard asked Mr. Sanders if he is correct in understanding that the garage will also be used for storage. Mr. Sanders stated that was correct and if fact will actually mainly be used for equipment storage, not for automobiles Mr. Stanard read the 11 factors filled out by applicant on the application;

1. Special circumstances do not exist which are peculiar to the land or structure involved.
2. The property will yield a reasonable return.
3. The variance is not substantial because of the 13 acres (880 sq. ft. spread over 13 acres should be taken into considered.) Also the 288 interior square feet is more “building like” and the rest are carport/garage-like”.

4. The character of the neighborhood would not be altered; the two buildings are distant enough from each other and cannot be seen from the street.
5. It would not adversely affect the delivery of governmental services.
6. The property owner did purchase the property with knowledge of the zoning district.
7. No special circumstances exist as a result of the actions of the owner.
8. The property owner's predicaments cannot feasibly be obviated through some other method.
9. The spirit and intent behind the zoning requirement would not be observed by granting this variance.
10. Granting the variance will not confer the applicant any special privilege that is denied by others in this district.
11. A literal interpretation of this Code would not deprive the applicant rights commonly enjoyed by other properties in the same district.

With those 11 considerations, this board is being asked to consider allowing the applicant 880 more square feet than what is allowed by the Code.

Mr. Hodgson informed the board that he just wanted them to keep in mind that this was always treated as an 18 acre parcel of land with common areas and common drives. One of his intents for this property was to have the pavilion in the proposed locations so that everyone in this subdivision can enjoy it as a "common space." He stated that he feels that the pavilion is more of the exception than the garage.

Mrs. Cannon stated that if this board is inclined to grant this variance, it will be conditioned upon approval of the lot split & consolidation plat on the Planning agenda later this evening. Mr. Strichko stated that because both the pavilion and garage are accessory structures, a primary structure needs to be built before they can be built or before a permit to build can be issued. Mr. Sanders stated that it was his understanding that the primary and secondary structures could be built at the same time. Mr. Strichko stated that in the past, they have allowed that but only after the foundation of the main structure was put in.

Mrs. Cannon asked how much of a variance would be needed, if any, for just the garage, if the pavilion were not built. Mr. Strichko stated that a 238 sq. ft. variance would still be needed in order to build just the garage. Mrs. Cannon stated that the magnitude of the variance is expanded by the request for the pavilion; she asked the applicants to speak to that point. Mr. Sanders stated that he believes Mr. Hodgson already spoke to that when he stated that he wants the pavilion as a "common space" to be shared by this multi-parcel area.

Mr. Bolek stated that the request for the pavilion does not seem to be urgent, as there would not be a hardship if it could not be built. He asked the applicant if there were any circumstances that make this request unique and/or creates a hardship. Mr. Hodgson stated that it is not a hardship. The purpose for the purchase of this property was to have an area for his entire family as well as the common gathering area for everyone to enjoy, which was in the same layout that was proposed 2 years ago. He stated again that it is not a hardship but it helps complete the entire project, with 7 acres going to conservation and having split the lot lines a few times in order to accommodate future utility lines. Mr.

Hodgson also informed the board that his intent was to have a modest sized house and not a huge home in order to have other structures on the property.

Mr. Fritz stated that he is sympathetic to the project and agrees with Mr. Hodgson about having a “common space” but that he is struggling with the fact that this Code was in place when he purchased the property. He stated that the Village worked very hard to get the U4 zoning in place. Mr. Hodgson stated that he read about the U4 but he did not know about the square footage restriction until a few months ago.

Mayor Renda stated that she wants to point out that variances are granted based on hardships and it is very hard to conclude that Mr. Hodgson has a hardship. She asked Mr. Hodgson if there was a way to rethink his argument.

Mrs. Cannon further explained that “practical difficulty” is what is needed to be proved in order to grant a variance. She asked Mr. Hodgson whether he was prepared to commit to saying he is done asking for any more variances, if this variance is granted tonight. Mr. Hodgson reiterated that nothing has changed regarding this plan; he has had this plan since 2013. He stated that he has no intention of doing anything else. The sole purpose for this project is because he wants to do it all now and get everything done so that in the future, everything will be ready.

Mrs. Cooper asked why there is a need for the garage to be 1232 square feet. Mr. Hodgson stated that he did not have a specific size in mind, but that he specified to the architect his need for 2 bays and a tool shop area. This structure will hold garden and lawn equipment for maintenance of the entire property. Mr. Sanders stated that the reason that they are presenting their request for both buildings now was so that they can present the plan for overall property instead of asking for variances later down the road. Mr. Brown stated that Mr. Hodgson has also held them back from getting permits because he wants to get all approvals done first.

Mr. Stanard informed the applicant that if the board were to vote and not approve it, they could not come back with this same request.

A discussion ensued amongst the applicants.

Mr. Sanders stated that at this time, they would withdraw their application for the variance. Mrs. Cannon suggested looking at the standards in the Code based on special conditions, the square footage, etc., before they resubmit.

Smith Residence
36205 Miles Road
Non-Conforming Use:
Expansion of a Building

Mrs. Cannon Swore in Mrs. Rebecca Smith since she had not been sworn in previously.
Chairman Stanard declared the public hearing open at 6:40pm.

Mrs. Rebecca Smith was present at the meeting. Mr. Stanard stated that this property has an existing structure occupied by a non-conforming use.

Mrs. Smith stated that this building was always a second home on this property and was still being lived in at the time she and her husband purchased it. Mrs. Smith stated that when she and her husband first came before this board, they informed them that their intent was to use this as a guesthouse, as main house is not big enough for guests. All buildings were in disrepair at the time they purchased the property, with this building being the worst, however, other items needed to be fixed first. She stated that they are working hard to preserve this property. This building will be used for guests; Mrs. Smith's parents will visit over the summer and it will also be used for overflow from the main house.

Chairman Stanard declared the public hearing closed at 6:43pm.

Mayor Renda asked about the length of time Mrs. Smith's parents would stay. Mrs. Smith stated that they would be here for 2 months during the summer. Mayor Renda clarified that this could not be a permanent second residence for her parents. Mrs. Smith confirmed her understanding and stated that it will just be a guesthouse; they have no intention of making it a permanent residence. And in fact, one of the reasons for expanding the guesthouse is so they will not have to do a large addition on the main house because it is a historical home and they would like it to be on the national registry.

Mrs. Cannon stated that there are 2 issues in question; the first one is the expansion of a non-conforming use, which cannot be done without this board's approval and the second issue is the area variance regarding maximum square footage for all the accessory buildings. She stated that Mrs. Smith is requesting permission to expand the non-conforming use by adding on to the guesthouse for reasons that she previously stated, among them being that they do not plan to make a substantial addition to the main house because of the historic nature of the structure. The request is to allow an expansion of the non-conforming use in lieu of a big addition on the main house.

Mrs. Smith clarified that the only expansion to the guesthouse is the garage portion; the house footprint will not be expanded.

Mayor Renda asked when the structure was last used as a guesthouse. Mrs. Smith stated that it was apparent that people were staying in it when they moved in (about 3 years ago) and she stated that it was built as a house originally.

Mr. Stanard asked about the size of the expansion of the guesthouse. Mr. Strichko stated that it will be roughly 23 x 32. It is just a garage expansion; the living space will not be touched. Mrs. Smith informed the members that the reason they need this additional space is because they have a lot of equipment to store and they have also discovered with all the snowfall in the past two winters, they cannot get the machinery needed to manage the farm and the animals as far back as they need it to go. Having the equipment in closer proximity to the barn will be very helpful. She stated that house never had a garage to speak of; there was a very small 1 bay garage that only fit one small car. Mrs. Smith stated that currently their cars are not kept in the garage while all the equipment is stored in the detached three-car garage; and not all the equipment actually fits in there either.

Mr. Fritz asked if it was correct that the purpose for the expansion of the non-conforming use is not for the “guests” but for the storage of the equipment. Mrs. Smith stated that was correct. Mr. Fritz asked about the existing outbuildings on the property to the west. Mrs. Smith stated that the buildings are the three-car garage, two-story workshop and the chicken coup/greenhouse. The garage now houses all the tools.

Mayor Renda asked Mrs. Cannon since it has not been used for 3 years as a guesthouse; what does that do to the non-conforming use. Mrs. Cannon stated that if the intent to use it is not made clear, the non-conforming use lapses. She stated that the Smiths have made it clear that they always intended to use it as such so it has not lapsed. Mrs. Cannon stated that as long as intent is declared, status is maintained. Mrs. Smith stated that it was in their original presentation to this board, however, since it was in need of a lot of repair, other more important items needed to be taken care of first.

Mrs. Cannon stated the issue before the board is whether they will entertain a motion to allow the expansion of the existing non-conforming use for the guesthouse. The expansion is to be an addition of a garage on the guesthouse as shown on the plans submitted with this application and will be approximately 23 x 32 in size, with a connecting walkway to the residence structure with no expansion to the residence portion of the structure. She stated that it is important based on what the applicant has presented that if this board were to approve this request this evening, then the applicant is not in a position to come back and request either a larger garage or an expansion to the residence portion of this structure. The approval of the proposed expansion of the non-conforming use will be conditioned upon those two principles. Mrs. Smith stated that she does not have any other intentions with this building other than bringing it back to being usable and adding the farm equipment storage. Mrs. Cannon asked Mrs. Smith if she understands that if the board approves this expansion tonight that will be the maximum allowed for this building. Mrs. Smith stated that she understood that.

Mayor Renda made a motion seconded by Mr. Fritz to allow the expansion of the non-conforming use located at 36205 Miles Road, with the conditions that the expansion not exceed the garage portion as shown on the plans of approximately 23 x 32 feet and the connecting walkway, and that no further expansion of this building (including the residence portion) can be requested in the future.

ROLL CALL:

AYES: Mr. Bolek, Mrs. Cooper, Mr. Fritz, Mayor Renda, Mr. Stanard

NAYS: None

MOTION CARRIED

Chairman Stanard declared the public hearing open at 7:03pm.

Smith Residence

36205 Miles Road

Area Variance:

Accessory Structure - Garage

Mrs. Rebecca Smith was present at the meeting. She showed the plans for the garage addition, which requires a 736 sq. ft. variance. She stated that they are proposing a garage addition to the non-conforming guesthouse building in order to use it for storage of equipment.

Chairman Stanard declared the public hearing closed at 7:03pm

Mr. Standard stated that Mrs. Smith had mentioned previously that her hardship is the amount of equipment that needs to be stored in order to maintain this 35-acre parcel of property.

Mr. Fritz asked if they did not build this garage, the equipment could not be stored anywhere else. Mrs. Smith stated that it could not.

Mrs. Cannon stated that if the BZA is inclined to grant the requested area variance of 736 square feet for additional accessory structures, her recommendation would be that the board make the following findings of fact based on the factors listed in Chapter 1131.17 of our Code; There is a practical difficulty related to this property because of the following:

1. Special circumstances exist given the relatively large 35 acre area of this property and the need to have a greater area for equipment storage closer to the barn in which the animals are kept.
2. The variance is not substantial taken into account the size of the property and the minimum necessary to make possible the reasonable use of the barn facilities, because of the size of the property.
3. Adjoining properties will not suffer substantial detriment as a result of the variance.
4. There is no adverse effect upon governmental services.
5. There is no other manner in which the owner's predicament can be feasibly obviated except through granting this variance.

Mr. Fritz made a motion seconded by Mrs. Cooper to approve the findings of fact.

ROLL CALL:

AYES: Mr. Bolek, Mrs. Cooper, Mr. Fritz, Mayor Renda, Mr. Stanard

NAYS: None

MOTION CARRIED

Mr. Bolek made a motion seconded by Mrs. Cooper to approve the 736 square foot area variance for the garage addition to the guesthouse located at 36205 Miles Road.

ROLL CALL:

AYES: Mr. Bolek, Mrs. Cooper, Mr. Fritz, Mayor Renda, Mr. Stanard

NAYS: None

MOTION CARRIED

Chairman Stanard declared the public hearing open at 7:10pm.

Hunt Residence
200 Meadowhill
Area Variance:
Side Yard Setback- Addition

Ms. Rebecca Pantuso, and Ms. Mary Nemec, homeowner, were present at the meeting. Ms. Pantuso stated that the applicant is proposing to add an addition to her home. She stated that the left side of the house is a split; it goes down then up. Ms. Pantuso stated that the applicant would like to add addition on the right that would support a first floor bedroom so that Ms. Nemec's daughter and husband can move in with her to help take care of her. Ms. Pantuso stated that their intent is to leave as much of the house in tact as possible. There is an existing sunroom which has lovely views of the yard and they would prefer not to destroy that space, which is why the proposed bedroom addition is canted off to the right thus requiring an 8.5 foot variance to the furthest point.

Chairman Stanard declared the public hearing closed at 7:12 pm.

Mr. Bolek asked for more information about the views from the sunroom because otherwise the addition could be pulled back a bit and not need a variance. Ms. Pantuso stated that the sunroom is really the only view to the backyard from the house, so to maintain any exterior views and to offer privacy, the bedroom is canted over. Moving it back would limit the view and there would be difficulty working with the roofing connection in an aesthetically pleasing way. She stated that their intent is to not lose the value of property by going straight back, maintaining light into the home, and keeping the addition on the main floor.

Mr. Stanard read the applicants answers to the eleven factors on the application.

Mrs. Cooper asked if there would be any impact on the pump and well. Ms. Pantuso stated that there would be no impact; there is a 10 foot diameter around it for future maintenance

Mrs. Cannon stated that pursuant to Chapter 1131.17 there is practical difficulty presented by this application particularly the following:

1. There are special conditions & circumstances to both the land and the structure being that because the house is built on 2 levels and in order to accommodate the circumstances of the applicant, the addition needs to be on the existing main level
2. Because of existing roof pitches of property, the addition must either be cantilevered necessitating a variance or it would substantially impact both the rear views and roof pitches of the existing structures
3. The addition cannot be accommodated elsewhere on the site because of the septic and riparian setback
4. The variance is the minimum necessary and it is not substantial in 8.5 feet to the furthest point of the addition being the eave overhang, in 35 foot setback.
5. The essential character of the neighborhood would not be substantially altered
6. No substantial detriment to adjoining properties
7. The owners predicament cannot be feasibly obviated other than variance as outlined above.

Mayor Renda made a motion seconded by Mr. Fritz to approve the findings of fact.

ROLL CALL:

AYES: Mr. Bolek, Mrs. Cooper, Mr. Fritz, Mayor Renda, Mr. Stanard

NAYS: None

MOTION CARRIED

Mrs. Cooper made a motion seconded by Mr. Bolek to approve the 8.5-foot sideyard setback variance for the addition located at 200 Meadowhill.

ROLL CALL:

AYES: Mr. Bolek, Mrs. Cooper, Mr. Fritz, Mayor Renda, Mr. Stanard

NAYS: None

MOTION CARRIED

Mayor Renda made a motion seconded by Mr. Bolek to adjourn the meeting at 7:25pm.

ROLL CALL:

AYES: Mr. Bolek, Mrs. Cooper, Mr. Fritz, Mayor Renda, Mr. Stanard

NAYS: None

MOTION CARRIED

Respectfully Submitted,

Sherri Arrietta, Clerk of Council