



TOWN OF SAUGERTIES

ZONING BOARD OF APPEALS

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ZBA Monthly Meeting April 2, 2012

Present: Jeanne Goldberg, Joe Mayone, Brian Sawchuk, Samantha Dederick, Donn Avallone.

Absent: Henry Rua, Bruce Leighton; liaison.

Also Present: Dan Graap, Alvah Weeks, Jr; Building Inspector, Franco Pellegrini, and Rich Praetorius.

~ Meeting started at 7:05pm by Jeanne Goldberg.
~ Jeanne requested a motion to change the order of the Agenda so that it better suits the topics at hand. Brian made a motion to accept the re-ordering of the Agenda which was 2nd by Sam. A vote was taken, all were in-favor, therefore the motion was passed to re-order the Agenda to do the New Appeal first, the Public Hearing second and the Decision third and the Discussions last.

New Appeal:
Marian Dolney
4 Storms Rd.
Goshen, NY 10924

File#12-0003
SBL#: 8.3-4-2

- Property is located at 55 Fawn Rd.
- Rich Praetorius of Praetorius and Conrad was there representing the client.
- Appeal started at 7:06pm with Jeanne reading off the Agenda. However, there was some confusion on what the applicant was asking to be granted to them.
- Alvah addressed the Board trying to clarify what is being asked for by the Applicants. They are requesting an area variance of 2 acres for the purposing of subdividing and existing lot that is 6+/-acres into two (2) 3+/-acre lots. The property was zoned in LDR District when the owner originally purchased it. Then re-zoning took place in 2008 putting this parcel of land in the LDR(SA) District because they are in the Village Watershed. Now to subdivide this land the owner would need to have 8+/-acres because the LDR(SA) requires that each dwelling unit have 4+/-acres. The applicant is requesting relief from the Zoning Law regulations regarding the LDR(SA) requirements because when they purchased the property they were told they had enough to subdivide and now they do not.
- Mr. Praetorius stated that the parcel is currently 6.485 acres and that they would divide the parcel into one 3.256 acre parcel and one 3.229 acre parcel.
- Sam mentioned that then the applicant's really only need 1acre (give or take) variance not a full 2acre variance.
- Donn asked the Board if this should be granted wouldn't it create a precedence to others in this situation. Jeanne feels yes it would.
- Jeanne made mention to the Board and to Mr. Praetorius that a joint Public Hearing between the Planning Board and the Zoning Board of Appeals will not happen regarding this project because they are two separate boards with separate issues and it will not happen.
- Mr. Praetorius said ok.

DONLEY APPEAL CONT'D:

- Currently this project is in-front of the Planning Board, however, the Planning Board sent the Applicant to the Zoning Board to see if a variance could be granted for this relief and to obtain a 2 acre variance, one acre for each parcel to be created.
- Per Jeanne, Dan Shuster the Town Planner is against a joint Public Hearing.
- The Board was asked if they had any questions for Mr. Praetorius, no one had any questions or comments.
- Jeanne asked for a motion to be made regarding the Public Hearing.
- Sam made the motion to set the Public Hearing for May 7, 2012 at 7pm, Joe 2nd the motion. A vote was taken, all were in-favor, passed 4-0, Rua - absent.
- Mr. Praetorius was given all the information to have for the Public Hearing.
- Appeal ended at 7:14pm.

Public Hearing:

GianFranco Pellegrini
16 Arthur Ln.
Saugerties, NY 12477

File#: 12-0001
SBL#: 17.2-5-36

- Property located at 2769 Rt. 32 also known as the former Wynkoop House.
- Received Certified Return Receipts from Mr. Praetorius at start of meeting.
- SEQR Classification discussion started at 7:15pm before the Public Hearing was started.
- Jeanne informed Mr. Praetorius that this was a TYPE I SEQR because the property in question is recognized on the national, state, and historical register.
- After review, it was determined that SEQR determination of TYPE I 617.4(B)(9) would be necessary for this project based on the fact that this action occurs wholly or partly within any property that is national or state registered. No way around the SEQR Type.
- Coordination is needed between the ZBA & Planning Board for review regarding the SEQR and the NEGATIVE or POSITIVE DECLARATION (NEG/POS DEC) that is required.
- Jeanne mentioned that the Historic Preservation Commission should be involved too.
- Mr. Praetorius said to send the Historic Preservation Commission all the information just as an interested party only and felt they should not be a lead agency.
- Jeanne also asked if DOT, Ulster County Health Dept., Highway Dept., Ulster County Planning Board, and the DEC should be involved agencies too. Mr. Praetorius said no, only as interested parties.
- Jeanne asked for a motion for the SEQR determination.
- Brian made the motion to set it as a TYPE I 617.4(B)(9), Sam 2nd the motion, a vote was taken, all were in-favor (4-0) Rua – absent.

*PUBLIC HEARING officially started at 7:25pm.

- Jeanne asked anyone in attendance to address the Board and state their name and address.
- No one was in attendance.
- Jeanne then turned it over to the Board.
- Jeanne mentioned that the EAF still needed to be filled out and that a Lead Agency needs to be created too. She feels she does not have enough information to finish the second half of the EAF and asked Rich for his help/guidance on filling it out.

PELLEGGRI PUBLIC HEARING CONT'D:

- Mr. Praetorius reminded the Board that the Applicants are asking for is 7'-6" variance because the Historic Preservation Commission wants them the angle the building. All on the Board understood that and are ok with this issue.
- Mr. Praetorius discussed the EAF and how to fill it out with the Board, once a lead agency is determined then follow form step by step, Dan Shuster should help with it, feels a Neg. Dec should be determined at end.
- Board wants a joint meeting with Planning Board, Historic Preservation Commission, and ZBA to establish Lead Agency and to complete the EAF Form.
- Jeanne asked where the water supply will come from because currently there is a well.
- Mr. Praetorius stated that it would come from the Motel Howard Johnson's which is across the State Highway from this property. He also mentioned that the new owner of the property has made a deal with Howard Johnson's to make it work while the previous owner could not.
- The septic will be a pump at the intersection of Rt. 32 and Rt. 212 and use the manifold with Hess Gas Station. Hess Gas Station does not own it the Town does so Hess will provide the forced main.
- Jeanne asked what Comfort Inn uses (the other hotel across the Highway) in regards to their sewage disposal system. They use a Rotating Biological Contactor (RBC) that pumps across Rt. 32 under the Wynkoop House and discharges into the Beaverkill Creek. Comfort Inn has all the necessary permits and it is the same sort of system as what the Village uses.
- Howard Johnson's has a sand-filter and not subservice.
- Brian asked if the discharge was monitored by the DEC. Mr. Praetorius said yes.
- Brian asked where they will contain the Storm Water for this new project.
- Mr. Praetorius said it will be on site, under the parking lot in diffusion chambers.
- The Board decided that they will not make the applicant resend letters to the neighboring properties for the joint meeting. The ZBA will just put it in the paper and list it at Town Hall.
- Sam feels that the ZBA should claim lead agency and leave the public hearing open and when the time comes for the joint meeting see if any one objects. Jeanne is ok with this.
- Brian feels the Board should leave the Public Hearing open because then the Board won't be left with a time constraint if the Board closes the meeting.
- Sam made the motion to leave the public hearing open, motion was 2nd by Brian. A vote was taken and all were in-favor (4-0, Rua- absent). Therefore, the public hearing will be left open until May 7, 2012.
- Jeanne asked the Board should the ZBA or the PB be the lead agency. Sam believes it should be the ZBA because the ZBA is the first in line to get the appeal and then see if anyone objects.
- Sam made the motion to claim Lead Agency for this appeal which was 2nd by Brian. A vote was taken and all were in-favor (4-0 Rua, absent).
- Public Hearing will remain open until May 7th.
- Public Hearing was adjourned at 7:45pm.

Decisions:

Daniel Graap
18 Hanover Cir.
Mahopac, NY 10541

File#: 11-0009
SBL#: 9.3-5-8

-Property located at 151 Patterson Rd. Saugerties in the Hamlet of West Camp.

GRAAP DECISION CONT'D:

- Requesting a Side Yard Area Variance of 18'.
- Started at 7:46pm.
- Board received two (2) letters one from George and Rita Beisel and one from Fire Chief Richard Pesce at opening of meeting which the Beisel's dropped off to the Secretary on 4-2-12 in the early afternoon at the Building Dept.
- Jeanne asked when the 62 days would be up; it would be up May 5 which would not be in-time for the board's May 7th meeting. Therefore, the decision is needed tonight or it is an automatic default denial and the appeal is denial. Joe thought it was an automatic approval, no said Jeanne.
- Mr. Graap was in attendance.
- Dan Graap asked about the admissibility of these letters seeing as how the Public Hearing has been closed and could he have a chance to respond.
- Jeanne and Sam would like to accept the letter into file. Sam feels the Board should accept because the Board held open the Public Hearing in March so the Beisel's could look at the information that Mr. Graap submitted and they did not have time to respond or really rebuttal. Jeanne is inclined to include it because she does not want to discard anything the public says.
- Mr. Graap feels that is not true because Chris DiChiaro submitted the information two weeks prior to the meeting and they could have come in and looked at the file to see if anything changed.
- Brian said that if the Board admits the letter then Mr. Graap should have time to rebuttal the letter, Mr. Graap was given the letter (letter is on file) and the remaining Board members agreed with Brian.
- Brian said the Beisel's asked to consider the abandonment law. So if the Board admits it, it is very significant in his view.
- Mr. Graap asked how the Board determines the validity of the letter. Jeanne responded they were going to determine that.
- Jeanne asked for a 7-8min recess to review and read the letter. Recess started at 8pm.
- Sam and Jeanne read the letter from the Beisel's aloud for all to hear. Jeanne asked if the Board had any questions or comments.
- Sam said that the first page is items that the Board has already addressed, the Beisel's will not be happy no matter what. The abandonment issue has been addressed by the Board and it was determined that it is not abandoned and that both Mr. Graap's variance and the Beisel's variances were and are both substantial.
- Sam asked if Mr. Graap had any objects to the letter.
- Mr. Graap said he objects to all of it and it is obvious that the Beisel's don't want this project to happen. He said that he has all the proof pertaining to his letter that the Beisel's are talking against and he'd be happy to show the Board.
- Joe asked Mr. Graap how he can tell that the topography of the land around the Beisel's house has changed.
- Mr. Graap stated that he looked at what they submitted and what was on the county website and looked at the property now and you can tell that excavation occurred.
- Jeanne asked Alvah to address the topics in the letter. Alvah felt it may not be fair, Jeanne said it would be fair because the Board needs all input necessary.
- Alvah feels that Fire Chief Richard Pesce is a great chief and respects his opinion but that his letter is a mute point because there is an abundant supply of water (Hudson River is located right below the property) so should there ever be a fire the fire could be fought for a very long time with no worries.
- Alvah also mentioned that the in regards to the Beisel's letter he feels that their property will not be de-valued, like they said in their letter, but with this house being built next door he feels it will improve it because the trailer will be gone and make it a more pleasant site to look at.

GRAAP DECISION CONT'D:

- Brian asked Mr. Graap if he had a meeting with Alvah Weeks and Dan Shuster before he ever purchased the land. Mr. Graap said yes but it was to see what could be done with the property. Brian then said that Mr. Graap should have been well aware of the conditions involved with this property before he bought it. Alvah said that he and Mr. Graap did have a meeting and did talk about the issues at hand but did so to gain access to the residence that is existing and determined the number of bedrooms that could be in the new house because the Assessors' office does not keep record of bedrooms in trailers and that the issue with the road did not come up until the project was in-front of the Zoning Board of Appeals and the survey was shown.
- Brian questions the abandoned issue of the existing residence because he talked with the Anderson's and they say no one has lived there since the mother passed away he said that he has ignored the issue but now with this letter the Board has to address it.
- Alvah felt that because the house was in a legal issue no one could live in it so of course it would be "abandoned" and how do you determine the truth it could be one against another.
- Joe asked Mr. Graap that even though this is your dream home have you tried to design the house so that it would fit the existing footprint. They did try and the house that they want will not fit that is why they are here for the variance and no, he and his wife have not looked at other designs for houses because they like the one they have picked out.
- Mr. Graap also stated that when he purchased the house the electric was on and he turned it into his name. He opened the windows when he was measuring the house and he turned the heat off to the house. So how is it abandoned if the heat and electric was on and he turned it off?
- Jeanne asked Mr. Graap that the only variance he wants is the 18' side yard area variance, yes that is all he wants.
- It was also mentioned that if Mr. Graap wanted to he could build a 3 story home if he stayed in the original footprint or he could build the house 96' long and not the 86' he wants and not need a variance at all. Joe said that if he built it the 96' long that he could do so with no issues and that would be worse for the Beisels.
- Donn asked that by taking the Beisel's letter into consideration and its contents aren't they all Planning Board issues, Board agreed. So he felt the only issue for the ZBA was the 18' variance and how does the Board grant one person one variance and not give one to another person, neighbors especially, isn't a precedence set. Brian disagrees with precedence but sees Donn's point.
- Brian also does not see how the Beisel's only have one bedroom in their house with the size that it is.
- Joe asked if they could make a decision on the topic at hand.
- The members of the Board did not object, therefore, they went over the 5 Criteria in determining their decision regarding the balancing test that states that the Board shall balance benefit to the applicant with detriment to health, safety, and welfare to the community by granting the variance to the applicant:
 1. The benefit can be achieved by other means feasible to the applicant, however, the other ways the applicant can build without the variance that is being requested will cause more harm than good to the surrounding property owners; could go 3 stories or 96' long.
 2. An undesirable change would not be created in the neighborhood or to the character to nearby properties. It will actually improve the area because the new owner will be taking away the unsightly manufactured home and replace it with a new single family residence.
 3. The requested variance is very substantial. The applicant needs to meet the 30' side yard setback to build and his is only 12' off the property line if he builds this house. The applicant is requesting an 18' side yard area variance making the requested variance more than 60% of the size required.

GRAAP DECISION CONT'D:

4. By granting this variance no adverse physical or environmental effects would be created to this property or surrounding properties. Though drainage could be an issue the new system being installed is going to improve the drainage not make the situation worse.
5. The alleged difficulty was self-created due to the size of the residence wishing to be constructed but does not preclude granting the variance.

-Brian made mention that this was his hardest decision to make since he has been on the Zoning Board and with hearing health and safety he has to make a motion to Grant the Appeal because nothing in this variance is a detriment to the area and before he heard that he would have voted no. The motion was then 2nd by Sam who agreed with Brian that her mind was changed last minute too.

- Jeanne asked for a discussion from the Board if anyone had anything to add before a vote was taken, no one had anything to add.

- Therefore, a vote was taken, all were in-favor (4-0; Rua - absent) making the Motion Approved and the Appeal granted to construct the house using an 18' side yard area variance.

- Due to the information on the list regarding the 5 Criteria mentioned above the Board saw no reason as to why they should not approve the appeal and because it is a pre-existing non-conforming lot which is small in size and has extremely unique geological and geometric layout for where the house can be placed.

- Decision discussion ended at 8:45pm and Mr. Graap was informed that he would have the Decision within 5 Business Days.

Discussions:

1. Jeanne will send a letter to the Planning Board regarding the Dolney Appeal for their recommendation letter
2. Brian made the motion to approve the minutes with one change, to add the date of the Beisel's appeal. The motion was 2nd by Sam, all were in-favor (3-0). Motion passed and Minutes for March 2012 were approved. Jeanne and Joe abstained because they were not present at the meeting; Rua- absent.
3. All members received their Planning Board minutes.
4. SEQR for File#12-0003 was held off until May's meeting.

~ Jeanne made the motion to end the meeting, 2nd by Sam, Vote was taken, and all were in-favor. 4-0; Rua – absent.

~ Meeting adjourned at 9pm.

~ Next meeting will be held on May 7, 2012 at 7pm.

Respectfully submitted,

Kathleen Blundell
ZBA Sect.