



TOWN OF SAUGERTIES

ZONING BOARD OF APPEALS

4 High Street Saugerties, NY 12477
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ZBA Monthly Meeting May 7, 2012

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

Absent: Alvah Weeks, Jr.

Also Present: Roger Stout, Mr. Praetorious, Franco Pelligri, Bruce Leighton, Mrs. Dolney & family.

~ Meeting started at 7:04pm by Jeanne Goldberg.

Other Business:

SEQRA Determination:

Marian Dolney
4 Storms Rd.
Goshen, NY 10924

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

- Property located at 55 Fawn, wants to subdivide their parcel into two (2) separate undersized lots.
- Jeanne asked the Board if anyone wanted to make a motion on what type of SEQRA this application should be.
- Sam stated unlisted or in the group of (C)(13). Jeanne stated that it depends on their area variance.
- Joe stated it is only one plot now and they want to turn it into two (2) plots. Yes.
- Jeanne said that if it were classified as unlisted then the Board would have to do a short EAF.
- Sam made the motion to list this application as Unlisted; the motion was 2nd by Joe. A vote was taken, 5-0, motion passed.
- SEQRA is an Unlisted Action and the Short EAF will be filled out later on in the meeting.
- Jeanne then explained what the SEQRA is for to the Donley's because of some confusion.
- SEQRA discussion ended at 7:15pm.

Public Hearing:

1. Marian Dolney
4 Storms Rd.
Goshen, NY 10924

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

- Property located at 55 Fawn Rd.

Public Hearing (Donley) Cont'd:

- Public Hearing opened at 7:15pm.
 - Mrs. Dolney and family were present and Mr. Richard Praetorius too.
 - Received green cards at start of meeting from Mr. Praetorius.
 - Mr. Praetorius addressed the Board that 2 lots will be created (1) in front and (1) in back; 6.48 acres total and the lots will be (1) 3.25acres and (1) 3.22acres; both need less than an acre variance. The Dolney's purchased the property in 1985 when no zoning existed. Zoning came into place in 1989 as R1 zoning needing two (2) acres to build and in 2008 when zoning was changed again the Town added a Sensitive Area Overlay to this part of the Town because it was in/near the Village Watershed. Now creating a hardship because an owner of vacant land would now need 4 acres to build.
 - Jeanne then addressed the Public in attendance to speak.
 - Roger Stout lives on VanVlerdian Rd. in the Town of Saugerties his 80+ acres borders the Dolney's property he informed the Board, Mr. Praetorius, and the Dolney's that he had no objections to this project and this his only issue with this is the precedence this may create for others that live in the area or that have this type of hardship due to the new zoning that was implemented in 2008.
 - Jeanne asked if anyone else had anything to say, no one spoke.
 - Jeanne then opened the discussion to the Board; they had no questions for Mr. Praetorius or the Dolney's.
 - Jeanne asked Mr. Praetorius if there are any streams on the property, he said no. Jeanne then asked how far away is this property from the Reservoir; Mr. Praetorius stated about 1.5miles away.
 - Mrs. Dolney then added that the houses will be two (2) bedroom houses with only one occupant.
 - Jeanne informed her that the variance goes with the property for forever and Brian added that should the appeal be granted they have one (1) year to subdivide.
 - Joe asked if the Board grants the variance can they turn it into a 5 bedroom house down the road. Only if their septic was upgraded to accommodate the extra rooms and that it still met all the regulations.
 - Jeanne then read the last paragraph from the Planning Boards letter of referral regarding why the Zoning Board should approve this appeal request (See File for letter and a copy was given to the Dolney's).
 - Jeanne then asked if there were any more furthers questions or comments – no one had any.
 - The Public Hearing was closed at 7:35pm.
 - Jeanne then informed the Dolney's that the Board now has 62 days to make the decision and that once it was made that they would be notified within 5 business days.
 - The Dolney's then gave the Board permission to walk their property if that was needed to help make their decision or if it was needed.
- ~ Jeanne granted a quick recess so that Mr. Praetorius could talk with the Dolney's before the Public Hearing for Pellegrini was started since he is representing both parties. Recess started at 7:38pm.
- ~ Recess ended at 7:41pm.

Public Hearing Continuation Pellegrini:

2. 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.
- Needs a 7'-6" side yard variance to construct a motel behind the existing Wynkoop Residence.
- Public Hearing started at 7:42pm as a continuation from April's meeting.
- Mr. Richard Praetorius and Mr. Franco Pellegrini were in attendance.
- Jeanne mentioned how the Board opened the Public Hearing last month in error due to the fact that the SEQRA was unfinished. However, it has been determined that this appeal is a TYPE I SEQRA and needed a coordinated review and the Zoning Board sent out the SEQRA information to 7 different agencies and when all was said and done the Planning Board took Lead Agency for this project.
- Motion made by Jeanne to relinquish lead agency on request of Town Planner 2nd by Sam Vote was taken, 5-0 all were in favor.
- It was determined that the environmental effects in the Long Form EAF have to do with Site Plan issues and not the variance itself.
- Planning Board is now the Lead Agency. The ZBA will still have input but the Planning Board has control over the Positive or Negative Declaration. If the ZBA has concerns the Board can bring it to the Planning Board's attention.
- Jeanne made the motion to leave the Public Hearing open indefinitely and without prejudice until the Planning Board has made SEQRA decision, Ulster County Planning Board makes their vote and the Planning Board signs off on their site plan. Motion was 2nd by Brian a vote was taken and all were in favor 5-0. Therefore, the Public Hearing remains open without prejudice until further notice from the other agencies.
- Joe and Henry feel this is a logical move on the Board's part.
- If the ZBA closes the Public Hearing then a vote would be needed and 62 days is not enough time.
- Jeanne will remain in communication with the Planning Board regarding the TYPE I determination.
- Mr. Praetorius agrees that this is all the ZBA can do for now.
- Public Hearing ended at 7:50pm. This will remain on the Agenda as a Public Hearing until further notice however; it does not need to be put in the Saugerties Times for the public.

DISCUSSION(S):

Marian Dolney
4 Storms Rd.
Goshen, NY 10924

File#: 12-0003

- Impact Assessment discussed and answers filled out by the Board. Copies are in the file at Town Hall should anyone like to see it.
- Motion made by Joe to give a Negative Declaration based on the information filled out it was 2nd Henry, a vote was taken 5-0 motion passed.

DISCUSSION(S) CONT'D:

- Jeanne gave a bit of math regarding this variance for Dolney. She stated that Lot #1 will be 3.256 acres so a .744 acre variance is needed to create the 4 acres that is required. Lot #2 will be 3.229 acres so a .771 acre variance is needed to create the 4 acres that is required. Making it a total variance needed of 1.515 acres and if granted it would be an 18.9375% variance which is almost a 20% variance being granted if granted.
- Jeanne asked the Board when they would want to make a Decision on this.
- Brian, Sam, and Joe feel they could make their decision at the meeting now.
- Sam feels it is a substantial variance and it is setting precedence because of the watershed.
- Brian said that because the Planning Board is involved it is unique and no precedence is being set because the Board is listening to Planning Board recommendations.
- Jeanne explained to Henry why the Planning Board recommended a Positive vote to the ZBA. It was said because this type of variance was not denied by the Building Department and in the Town Law it is written in Section 277.6 explaining how and why this happened.
- Henry has issue with size of variance because anytime down the road someone could say that the ZBA gave it to them why can't we get it.
- All agreed with Henry but what makes it more unique is looking at the qualifications of the Sensitive Area Overlay classification.
- Sam read the definitions pertaining to Sensitive Area (there are 7). This project is in the Village Watershed so that is why they are included in the Sensitive Area Overlay District and out of the 7 criteria this is the only one they fall into.
- Donn made a comment that 25 years ago they could have subdivided and it only wasn't until 2008 that the restrictions were put on the property and that even though it is a large variance being requested if he voted for the decision he would vote yes to it. Henry agrees with Donn.
- Jeanne asked the Board if anyone wanted to make the motion regarding a decision.

DECISION:

- Jeanne read from the Town Zoning Law under ZBA Section Appeals (8.2.3A) which helped her decide on how she'd vote regarding this appeal.
- Brian stated that when he reviewed this appeal and then went down the criteria the benefit to the applicant outweighed anything else.
- So with all the facts taken into consideration and based on the 5 Criteria 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 the Board determined that:
 1. An undesirable change will not be produced in the character of the neighborhood nor would a detriment to nearby properties be created by granting this variance. Other houses on the road are of the same size and distance apart from one another.
 2. The benefit sought by the applicant cannot be achieved by other feasible means. The applicant bought the property in 1985 and since then two (2) zoning changes occurred and now that they wish to divide the property a hardship has become present due to the latest zoning change in 2008.
 3. The requested variance is substantial (over 18%) but it will not create a safety or health issue with surrounding homes and it is the only way for the owners to have fair and reasonable use of the land.

DECISION CONT'D (DOLNEY):

4. The proposed variance will have no adverse effect or impact on the physical or environmental conditions in the neighborhood. Out of the 7 criteria that make the Sensitive Area Overlay only one aspect of it applies to the property because they are in the Watershed Protection area.
 5. The alleged difficulty was not self-created. By the Town of Saugerties changing the zoning of the area of the land in question in April of 2008 the hardship was created then. The applicant played no part in the creation of this alleged difficulty.
- Therefore, a motion was made by Mr. Mayone to grant the variance of .75acres and .77acres for a total of 1.515+/- acre area variance in-order to subdivide the existing lot into two separate lots. The motion was then 2nd by Ms. Dederick.
 - A vote was taken:
Rua – yes, Mayone – yes, Dederick – yes, Sawchuk – yes, Goldberg – yes.
 - Therefore, the motion is passed and the appeal is granted.

DISCUSSION:

1. Minutes for April to be approved. Motion made by Joe and 2nd by Brian to accept as written. Vote was taken 4-0; Rua abstained due to absence at that meeting.
2. All received Planning Board minutes.
3. Joint meeting not needed.
4. No one had any discussions from the class that most on the Board attended.
5. No other questions or comments.

~ Joe made the motion to end the meeting 2nd by Sam, vote taken, all in favor 5-0.
~ Meeting ended at 9pm.

Respectfully submitted,
Kathleen Blundell