

VILLAGE OF WARWICK
ZONING BOARD OF APPEALS
JANUARY 19, 2017

The monthly meeting of the Village of Warwick Zoning Board of Appeals was held on Tuesday, January 19, 2017. Present were: John Graney, John MacDonald, Jonathan Burley, Sandra Mehling and Zoning Board attorney Robert Fink. Others present were: Thomas Mattingly, Allen Ahearn, Mr. & Mrs. Smith, Mr. & Mrs. McCutcheon, Mr. & Mrs. Ferrac, Brian Singer, Thomas LaMonte, Frank Sinopli and others.

A MOTION was made by John MacDonald, seconded by John Graney and carried to accept the minutes of the August 15, 2016 ZBA meeting. (3 Ayes)

146 WEST ST.

AREA VARIANCE

THOMAS MATTINGLY

Mr. Ahearn – We are submitting a new plan which actually changes the road frontage to make it a bit more equal on each side.

Mr. Fink – The question came up at the last meeting based upon the opinion of the Planning Board Chairman that you could not increase non-conformity. That is the reason for the plan that is being presented. That issue came up and my preliminary opinion is that I do not agree with the Planning Board Chairman. A variance is a variance and we commonly as a matter of fact grant variances where there is a less than the required setback and we grant a lesser setback. I have communicated with Mr. Dickover, the Planning Board attorney and expressed my opinion and he has not gotten back to me but I do not think there is an issue. So based upon that a plan has been presented, certain variances have been requested but there is no reason that this application can not evolve as the meetings go on. We do not have to advertise and if you wish to present another plan which might be more favorable for whatever reason I am sure that the Board can consider that and the variances required for that.

Mr. Ahearn – I would prefer an updated plan which reduces the variances on the road frontage and I believe it actually reduces the total number and the severity of the variances being requested. Which changes lot 1 to 80 ft. and lot 2 to 70ft and I think it is a much more consistent and has fewer variances.

Mr. Fink – What does it do if anything to lot acreage?

Mr. Ahearn – Basically lot 2 it will be 19,574 sq.ft. ,the minimum area which requires 20,000sq.ft.

Mr. Fink – So you are decreasing the requested variance for the lot area?

Mr. Ahearn – Yes, significantly.

Mr. MacDonald – There will also be a small variance on the pre-existing structured lot.

Mr. Ahearn – Yes. The reason why the first plan was even drafted was to try and address the non-conformity raised by the Planning Board Chairman.

Mr. Fink – His position was that you could not increase any non-conformity which kind of handcuffed you.

Mr. Ahearn – Overall, if you look at the Bulk Table you will see that this plan makes more sense and the variances are nominal.

Mr. MacDonald – It doesn't matter that this is a different plan that was advertised?

Mr. Fink – The Board can grant different variances. There is no difference with the 15.9 pre-existing setback. The number of variances are the same but they have reduced the number of the three they have requested. If that is the plan they want to present.

Mr. Mattingly – If it is procedurally ok, this is the plan we would like to proceed with.

Mr. Graney opened up the meeting to the public.

Mr. Smith – Are we just talking about changes to lot 2 or also to lot 1?

Mr. Fink – Both. It is one variance on lot 1 and 2 variances on lot 2, so the number of variances have not changed. There is another variance on lot 1 but it is a pre-existing condition. I spoke at the last meeting and my opinion has not changed. I still feel we are trying to crowbar houses into this neighborhood. In my opinion we already have enough houses there and I think it will diminish the open space feel that we all enjoy. I live further down on West St., the properties start getting bigger, we have a nice yard, a nice sight line up into the hills and so on and this is going to impact that. I am just reiterating my objection. I think the variances are too much. We are taking 150 ft. and making 2 properties where it should be 100ft. It is an improved plan but whether it is 100 on one and 50 on the other or 75 on each it is still the affect is the same, you are squeezing in an extra house.

Mr. Fink. – There are only 4 members here which means you need 3 out of the 4. You can request a hold over until the next meeting. The Board can take all of the comments, discuss it, close the public hearing and go and look at it again, you do not have to reach a decision tonight if you do not feel ready.

Mr. Smith – I know 3 of the members were here at the last meeting, were the objections from the previous meeting shared with everyone before this meeting? Because there were other people who objected at that meeting.

Mr. Graney – Yes, the minutes of the last meeting were reviewed by this Board before we came here tonight.

Mrs. Smith – Is there a limit as to how many times we have to come back because there may not be enough people on the panel to vote?

Mr. Fink – That has really never happened. But, how many times could this happen? It is at the discretion of the Board.

Mr. Mattingly – Does the Board feel that they need more time or are they ready to vote?

Mr. Fink – Certainly in so far as the plans are concerned we can discuss that as to what plan you want to consider.

Mr. Graney – Obviously it would be plan #2 which is percentage wise the least on each because that is typically what we try and rule by. I am ready to vote on the new plan.

Mr. Ahearn – Does counsel have any recommendation in any way, shape or form?

Mr. Fink – No, In so far as plan 1 or plan 2. I think Mr. Graney has expressed the Board's opinion that they would like to consider plan 2.

Mr. Mattingly – I would like to request a vote this evening.

A MOTION was made by Jonathan Burley, seconded by John MacDonald and carried to close the public hearing. (4 Ayes)

The Board went through the 5 criteria's:

- 1) Undesirable Change – No
- 2) Achieved by Another Method – No
- 3) Substantial – Yes, numerically
- 4) Adverse Effect – No
- 5) Self-Created - Yes

A MOTION was made by John MacDonald, seconded by Jonathan Burley and carried to type this action as Unlisted with No Adverse Effect under the SEQR process. (4 Ayes)

A MOTION was made by John MacDonald, seconded by Jonathan Burley and carried to grant a variance to for a 2 lot subdivision with the following area variances:

Proposed Lot 2 – lot size – 19,574 sq. ft., street frontage: 70 ft. lot width: 81 ft.

Proposed Lot 1 – lot width: -73.7 ft.; Side setback:-15.9 pre-existing (4 Ayes)

6 HAWTHORNE AVE. AREA VARIANCE MR. & MRS. McCUTCHEON

Mr. Graney read the public hearing notice.

Mr. McCutcheon – We would like to replace an existing deck with a small addition. We would be using the same footprint of 10ft. x 25ft.

Mr. Fink – Is there a way to make this addition smaller?

Mr. McCutcheon – Not really, the deck is already there we just want to keep the same footprint and basically use that same space.

Mr. Graney opened up the meeting to the public.

There were no public in attendance for this application.

A MOTION was made by Jonathan Burley, seconded by John MacDonald and carried to close the public hearing. (4 Ayes)

The Board went through the 5 criteria's:

- 1) Undesirable Change – No
- 2) Achieved by Another Method – No
- 3) Substantial – No, numerically pre-existing
- 4) Adverse Effect – No
- 5) Self-Created – Yes

A MOTION was made by John Graney, seconded by John MacDonald and carried to type this as an Unlisted Action with No Adverse Effect under the SEQR process. (4 Ayes)

A MOTION was made by John Graney, seconded by Jonathan Burley and carried to grant the variance as advertised reducing an existing side yard setback of 9.7ft. and a total sideyard setback of 29.8 ft. for the purpose of a 10ft. x 25ft. addition.(4 Ayes)

18 WELLING AVE.

AREA VARIANCE

MR. & MRS. FERREC

Mr. Graney read the public hearing notice.

The Board reviewed the application.

Mr. Ferrac clarified his request for a variance as follows: 564 sq. ft. addition to consist of 12ft. x 23ft. additional living space and a 12ft. x 24 ft. garage.

Mr. Graney opened the meeting to the public.

There were no public in attendance for this meeting.

A MOTION was made by Jonathan Burley, seconded by John Graney and carried to close the public hearing. (4 Ayes)

The Board went through the 5 criteria's:

- 1) Undesirable Change – No
- 2) Achieved by Another Method – No
- 3) Substantial- No
- 4) Adverse Effect – No
- 5) Self-Created – No

A MOTION was made by Sandy Mehling, seconded by John Graney and carried to declare this an Unlisted Action with No Adverse Effect under the SEQR process. (4 Ayes)

A MOTION was made by Jonathan Burley, seconded by Sandy Mehling and carried to grant a variance reducing the total sideyard setback to 36.4 ft. for a 564 sq. ft. addition to include a 12x23 ft. additional living space & a 12 x 24 ft. garage. (4 Ayes)

Mr. Graney read the public hearing notice.

Mr. Singer – I received approval for a 10,000 sq. ft. building, 2 stories, 40 x 125. I am proposing a building 102 x 48 because by law in order to get electric to this property I need a transformer which is required to be 20ft. away from the building. So I had to adjust the footprint, so I reduced it from 10,000 to 9,800 +- to fit into that. The majority variances were the old variances that I had for property lines between lot 1 & 2 to lot 3 because there is a common easement between them for parking and egress & ingress that is why they are listed as zero. All of the others were approved in the past and this is a new request. The Planning Board told me to add this one to the list because I had to come back this Board because the variance ran out and to get them all re-issued. We are required to have ten but we are asking for zero.

Mr. Burley – You need 4ft. is for egress?

Mr. Singer – We have the same municipal agreement with regard to stairs going down. I haven't changed any other lines that were approved by this Board before when this was subdivided.

Mr. Fink – Are the six variances shown on this site plan? Usually there is a key showing what is provided.

Mr. Singer – On the previous map it has them.

Mr. Fink – So you don't have a site plan with the transformer?

Mr. Singer – This is the plan with the proposed building and where the transformer needs to be.

Mr. Fink – As to the variances that were requested, what has changed and which one?

Mr. Singer- The 10 yard setback and I am requesting 0. The reason I want a 0 setback is because there are going to be stairs that go down, the grade and the exact width of it.

Mr. Fink – These variances were previously granted with the exception of one. They were granted in March of 2014 and they ran out in March of 2015. If the applicant did not want anything else they could come in before or after it terminates and seeks to extend it and under those conditions the only thing the Board can really look at is whether there has been a change in circumstances. We really don't go through it all because you have already found in favor of the applicant and you granted the variance. So you can not re-litigate that. But a new variance is different.

Mr. Graney opened the public hearing.

Tom LaMonte, 6 Galloway Hts. – So we are talking about a building that has already been approved shifting to the right? Does the front of the building stay the same?

Mr. Singer – Yes. They are the exact same location it has just been moved back about 8ft.

Mr. LaMonte – What about the other property, nothing is happening there, is it for sale?

Mr. Singer – No, but because of stormwater management it has to coincide with this building here for drainage and so forth.

Mr. LaMonte – Will the transformer be visible?

Mr. Singer – No, it will have shrubs around it and the whole place will be landscaped but probably not until August or September.

Mrs. Sinopoli, 6 Overlook Dr. – He needs to clean it up first.

Mr. Singer – It will be cleaned up.

Mr. Sinopoli, 6 Overlook Dr. – We experience street parking when there is a Karate tournament. It is an occasional thing but sometimes they park almost up by my house.

Mr. Singer – As far as parking goes, all of the parking has not been installed yet and will increase once it has all been built out.

Mr. Sinopoli – About that new lighting...

Mr. Singer – I received a requirement from the Village Engineer and met that requirement but when you switch to LED, it will be a different light.

Mr. Sinopoli – Will it be shielded?

Mr. Singer – No, it is a different type of light and it will go straight down.

Mr. Fink – You can speak about that either at the Planning Board or after the meeting.

A MOTION was made by John MacDonald, seconded by Jonathan Burley and carried to close the public hearing. (4 Ayes)

The Board went through the 5 criteria's:

- 1) Undesirable Change – No
- 2) Achieved by Another Method – No
- 3) Substantial – Yes, numerically
- 4) Adverse Effect – No
- 5) Self-Created – Yes

A MOTION was made John Graney, seconded by John MacDonald and carried to extend the previous variances received on 3/19/14

A MOTION was made by John MacDonald, seconded by Jonathan Burley and carried to type this as an Unlisted Action with No Adverse Effect under the SEQR process. (4 Ayes)

A MOTION was made by John Graney, seconded by Jonathan Burley and carried to grant a variance for a 10ft.-0ft. rear yard setback. (4 Ayes)

A MOTION was made by John MacDonald, seconded by John Graney and carried to adjourn the meeting. (4 Ayes)

Respectfully submitted;

Maureen J. Evans,
ZBA secretary

