

TOWN OF ESOPUS
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Zoning Board of Appeals

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TOWN OF ESOPUS ZONING BOARD OF APPEALS
Minutes of the April 16, 2013 Meeting

CALL TO ORDER: Chairman, Don Cole, called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Vic Barranca, Sean Fitzgerald, Joe Guido, Karl Wick, and Chairman, Don Cole.

Excused: Kathy Kiernan

Also present: Gloria VanVliet

MINUTES

Vic made a motion to approve the March minutes as written. Seconded by Karl. All in favor.

VOUCHERS

Vic made a motion to approve the vouchers for secretarial work and Daily Freeman legal notice bills. Seconded by Sean. All in favor.

INFORMATIONAL

04-16-13-01

Trevor Schultz
219 Hardenburgh Road

71.01-3-25
area variance

Trevor Schultz was present and he explained his variance requests. He would like to be able to re-construct the existing old barn foundation which is 71 feet off (front) property line on Hardenburgh Road, and eventually re-build the barn on this foundation. There is a residence on the lot, so that makes the foundation in the front yard.

Applicant is currently in front of the Planning Board and his other request of the ZBA is regarding parking. The size of his project and possible amount of guests establishes that 20 parking spaces would be required. This parking is required to be 100 feet from any building or property line and applicant is asking for a variance to this rule. Applicant stated that the 20

parking spaces would only be used at peak times, for example, when there is a children's' retreat and counselors are needed. He is asking that the five parking spaces that are within the 100 feet setback be allowed.

Chairman Cole asked about the photo of the stone foundation. Applicant explained that the old foundation was limestone blocks which would be the new foundation of the barn that he plans to re-build. He stated that it is 16x33 feet. Chairman Cole asked how many animals would be in the barn. Mr. Schultz replied that he cannot have animals in the barn because it is not within the 150 feet required. The barn will be used as a meeting hall.

Joe questioned the use of the walls in the photo as the foundation. Applicant explained how barns were built years ago into the side of a slope with a stone wall foundation and the upper level at grade above it. Joe asked how far the stone wall went into the ground. Mr. Schultz replied that he did not know. Joe asked if the building inspector had been out to the site and Mr. Schultz replied that he had not. Applicant stated that it is probably 200 years old and it is about two feet wide. Joe asked it was a wall or a foundation previously. Applicant replied that it was a wall but at the same time constituted the foundation to the barn above it.

Karl stated that he has something similar on his property. It is not a stone fence; it is the ground floor wall of the building. He said that his is 3 feet deep into the ground. Applicant stated that these barns are called "basement barns."

Karl mentioned that applicant shows two possible sizes for the re-built barn. Applicant explained that he could find a barn to re-locate with the same dimensions as the existing foundation; however the ridge beam would be going north/south. If he could build a larger barn and set it east/west, there would be southern exposure to allow applicant to put solar panels on the southern roof. He wants to use renewable energy so he put in the possibility of the larger barn.

Karl asked how tall the barn would be and applicant replied that it would be from 32 to 39 feet, measured from the ground.

Joe asked how much of the wall is existing. Applicant stated that there is a section that has to be re-built where a tree fell on it.

Joe asked a good time for board members to visit the site and applicant said he was flexible and to call first. Joe asked applicant to mark the barn site with flags – two different sets of markings for each of the size possibilities.

Joe asked about uses for the building. Applicant stated that he is applying to the Planning Board for farm use and also a retreat. The barn would be used for a meeting hall, kitchen and feeding place. It could also be a drop-off place and learning center.

Vic asked if the building would have a bathroom. Applicant stated that it would. Vic asked if it would tie into an existing septic system. Mr. Schultz explained that there is a well for the water supply and there would be the need for a new septic system. Applicant has been talking with a representative from the Health Department. Applicant would like to use alternative technologies which are possible because of the farm and retreat use. He would like to use a waterless toilet system, also called “compost toilet.”

Applicant asked if it was possible to change the “farming” setback requirements from 150 feet, which is very difficult to maintain. There are neighbors who have chickens walking around right by the road.

Secretary stated that applicant needs to obtain another referral from the Building Inspector for the parking variance he is requesting. He can speak to Tim about the farm setbacks also. If he gets more referrals for other variances, it must be before the public hearing legal notice goes into the Daily Freeman.

Joe asked applicant to bring a large sketch of the property to the public hearing and also to bring old photos of the property. Mr. Schultz asked where he would obtain old pictures and information. Secretary mentioned the Assessor as a resource and Karl said that the County Building Tax Mapper’s office may have information.

Chairman Cole asked applicant to return for the public hearing on May 21.

INFORMATIONAL

04-16-13-02

EAC of NY, Inc.
423 Broadway

56.20-3-28.200
use variance

Sam Adel, owner, and Michael Lockwood were present. Mr. Lockwood explained that applicant is requesting a variance on the required number of parking spaces for a new motel which will be on the property with an existing restaurant, La Mirage. Applicant is proposing a 12-room motel to accommodate the business of the restaurant and catering. The required number of parking spaces for the project, according to square footage calculations, is 154 and there is only room for 139 on the site. Mr. Lockwood explained that there are large portions of the building that are not in use. There is no daily restaurant business any longer, and the lot is empty most of the time. Applicant is currently in front of the Planning Board.

Chairman Cole asked where the motel was going. Mr. Lockwood replied that it will be on the south side of the restaurant building. He pointed out the location of the motel and all of the parking on the property.

Mr. Adel stated that in the past he had a restaurant and a catering business – the restaurant would

be open while a wedding was going on in another part of the building. For the past year and a half he has not had the restaurant open. They only do one party or wedding at a time. The hors d'oeuvres are served in the front area and then the reception moves into the back of the building. There is never a need for all the parking. He explained that he is proposing the motel for the people who are at the wedding, so their cars are already in the parking lot. Mr. Lockwood stated that applicant loses business because there is not a local motel for the wedding guests in which to stay.

Karl asked what the seating capacity of the restaurant or catering hall is. Mr. Adel thinks it is around 370. He does not have it posted. Karl asked that he find out what the seating capacity is for the public hearing. He said it would be helpful to know if it is under 400 – if applicant is not allowed to put 400 people in the building, it would help Karl's decision on whether he needs more parking. Applicant stated that it isn't possible for him to serve 400 people – the most he serves is 200.

Joe asked if applicant would agree to a stipulation that the restaurant could not serve more than 300 people. Mr. Adel would not have a problem with that. He has never had that many people in his twelve years of operation.

Joe asked how applicant decided to have 12 rooms in the motel. Mr. Adel replied that he wants the motel for the families of the bride and groom.

Karl mentioned that there is open space in the rear of the building. Has this been considered for the additional parking? Mr. Adel replied that this is the area that is used for wedding photographs and parking cars there would interfere with this. It is a landscaped area with a willow tree, perfect for photographs.

Karl stated that he is concerned about fire trucks being able to make the turn on the south side of the building, if the motel is built there. Mr. Lockwood stated that there is access on the other side with only a few small bushes blocking the way.

Joe asked if the motel would be open for anything but the weddings. Applicant replied that he did not want the motel open to the public. He wants to keep it clean for the bride and groom and that will increase his (wedding) business dramatically. Joe stated that if it was for the wedding guests the parking for them would be counted twice instead of once – they are going to be there as a guest and they are using the restaurant.

Chairman Cole asked applicant to return for the public hearing on May 21. He was reminded to get the seating capacity from the Fire Inspector.

PUBLIC HEARING

03-26-13-01

Venditti Properties LLC
832 Broadway

72.1-1-12.100
use variance

Lou Venditti was present representing Venditti Properties. Applicant is requesting to convert a commercial space into a residential space.

Applicant handed out drawings of the building's floor plan currently and with a proposed addition.

Chairman Cole asked if applicant was adding bedroom, bath and closet to turn building into residential. Mr. Venditti replied that a bath with toilet and vanity exists now, and he will be adding a shower to it.

Applicant stated that there is a tenant renting the building now for a studio and he will not be asking that person to leave. If it doesn't work out for the tenant, Mr. Venditti wants to have the building set up to be residential.

Joe asked if applicant is aware that if the Board grants this variance it expires in 12 months if there is no action taken. Mr. Venditti replied that he did not know that.

In answer to the Board's questions last month:

Applicant stated that the distance from the building to the north property line is six feet. He stated that he had spoken with the neighbor to the north about his proposal and the neighbor had no problem with it.

Applicant explained the parking situation. He pointed out the small road (Old 9W) which is parallel to 9W and stated that the big house has three parking spaces and that "there is parking all along the front on Old 9W." He said there is probably room for 30 cars.

Applicant stated that septic area is 120 feet from the small commercial building.

Joe asked the total acreage and applicant replied 1.16. Joe asked how many units were in the big house. Applicant replied, "Three one-bedroom." Joe stated, "On one acre."

Karl stated that there already was a multi-family dwelling in a commercial district that is "grandfathered in." "We're adding an accessory apartment to a multi-family dwelling." He wondered if the Board needed to add to the variance request.

Joe stated that it's going from commercial to residential which is a less significant use, but then applicant could never go back again. Applicant would lose the commercial aspect of the property if the variance is granted.

Applicant asked whether he could come back to the Board in the future to change back to

commercial with a variance. Joe stated the Board is granting the variance because it is the lesser. Karl stated they would not allow the renewed commercial use while this building (is residential).

Applicant asked if he wanted to sell the property in 20 years could he list it as “either/or”? Would new owner have to get a variance to make it commercial again? Karl stated that he may have to take out the kitchen.

Joe asked applicant if he had gone before the Planning Board and Mr. Venditti replied that he had not. Karl stated that, “This almost begs for a site plan review or special use permit.”

Joe stated that he could grant the variance, but would like to have applicant go to the Planning Board for a site plan review. Karl agreed.

Applicant asked what that meant and Joe replied that the Planning Board would look at his parking and lighting and tell him other things he might have to do on the property.

Joe said the reason he wants this is because applicant will have four residences on a one-acre lot. He said a site plan is necessary, in his opinion.

Karl stated that he agrees with Joe because it is already a multi-family house and applicant is adding another residence and it is a small property. He added that (the Planning Board) may have no problem with it.

Joe stated that if the tenant stays in the building, applicant would not have to do anything. Only when he begins the proposed change would he need to go before the Planning Board for a site plan review.

Applicant asked if this meant “curb cuts and the whole nine yards”. Karl replied that it could and that they could make his life difficult, but it is for good reason usually.

Applicant asked what would happen if he did not go to Planning and Joe stated that it would remain exactly what it is now. Joe told Mr. Venditti he will have one year from the Planning Board’s approval to (start the proposed work on the building).

The Board agreed that they would vote on this tonight and closed the public hearing.

PUBLIC HEARING

03-26-13-02

Wayne & Joan Geraci
60 River Road

56.76-2-22
area variance

Wayne Geraci was present. He is requesting a variance to allow an accessory apartment on a lot that is undersized and does not have municipal water and sewer. This apartment already exists

in his basement. He explained that he had been denied hook up to municipal water in 2005 by the County Superintendent of Roads. His brother-in-law was denied hook up in 2000. Since 2005 there have been two homes on River Road down the street from applicant on the same side of the road which have been connected to the Port Ewen water system.

Mr. Geraci answered the questions the Board asked last month and handed out photos and diagrams.

Square footage of the main floor of the residence is 2100 square feet.

Accessory apartment is 574 square feet.

Well recovery rate is six gallons per minute, and the well is 285 feet deep.

Applicant stated that the accessory apartment does not have its own entrance. He pointed out on the photo of the house where he had taken out a garage door and replaced it with a window similar to the others in the house and the addition added in 2005.

Joe asked if applicant was selling the house and Mr. Geraci said he is attempting to sell it because he lost his job about six weeks ago and the taxes are "incredible".

Joe asked if applicant had asked to be hooked up to Town water lately and Mr. Geraci said the last time he asked was 2005. Vic stated that the lateral is past applicant's house now, providing Town water further down River Road. Board members thought it may have been Don Kiernan, Superintendent of Port Ewen Water and Sewer District who told Mr. Geraci he could not get connected. Mr. Geraci is not sure who told him. Joe asked if applicant had a written refusal and Mr. Geraci replied that he did not. Vic asked if he was refused water and sewer hook up or just water. Applicant replied, "Just water."

Karl stated that the way the house is now; it is technically not an accessory apartment because it does not have a separate entrance. He asked applicant if he thought it was less saleable the way it is now. If the Board approves the accessory apartment, applicant would be allowed a separate entrance. Mr. Geraci stated that Tim Keefe told him that it was an accessory apartment because it did not have a separate entrance.

Vic asked applicant if it were to be made an accessory apartment, could he add a separate entrance. Applicant replied that anything is possible. Sean stated that it would be another feature to sell it (or) the next occupant would have to worry about putting in separate entrance and separate electric if they wanted to use it (as an accessory apartment).

Joe asked applicant if he had considered taking the stove out and not using it as an accessory apartment. Applicant replied that is his question to the Board. He stated that there is a sink, a two-burner countertop and a refrigerator. If he takes that out, it becomes more living space in a single family house.

Vic stated it would be more marketable and Karl said it would get more money if it had an

accessory apartment. Mr. Geraci stated that he hasn't put the house on the market yet. He wants to find out what to call this area of the house. He said he wants to have the variance to have the legal accessory apartment.

Karl asked what acreage applicant has. Mr. Geraci replied $\frac{3}{4}$ of an acre. Before his father-in-law subdivided the parcel in 2000 there was 1.75 acres. It was subdivided to give a parcel to applicant's brother-in-law as a wedding gift. Applicant moved into his father-in-law's house after he went to live with another family member. Mr. Geraci and his wife bought it from the family and put on the addition in 2005.

Karl stated that this is not a self-created hardship because applicant did not sub-divide the parcel. Karl took some time to figure out the exact area by the dimensions provided on the application.

Joe made a motion to close the public hearing. Seconded by Sean. All in favor.

DECISIONAL

03-26-13-01

Venditti Properties LLC
832 Broadway

72.1-1-12.100
use variance

Motion

Karl made a motion to grant a variance from Article V Section 123-10, Schedule of Permitted Uses, to allow conversion of a commercial building on this property into a one-bedroom dwelling. There shall be no simultaneous commercial use of this property. Simultaneous is the key word. If you remove the dwelling, you go back to commercial. This variance is subject to site plan approval by the Town of Esopus Planning Board.

Motion seconded by Vic.

VOTE:

Joe – In favor because I consider going from commercial to residential lesser.

Don – In favor.

Vic - In favor.

Sean - In favor. There is no opposition from any neighbors and I think this will improve the character of the neighborhood by reducing vehicular traffic on Old Rte. 9W

Karl - In favor. I think this is a less intrusive use and the codicil to the motion covers any expanded use.

Motion approved.

DECISIONAL

03-26-13-02

Wayne & Joan Geraci
60 River Road

56.76-2-22
area variance

Joe noted that approval of this variance does not mean that the Board is saying that the building meets building codes.

Motion

Karl made a motion to grant a variance from Article IV Section 123-11 G(2) to allow an accessory apartment, which currently exists, on .75 acres instead of the required 1 acre, with the provisions that this house shall remain owner-occupied for the duration of the variance and that the entire structure complies with all applicable building and fire codes.

Note: owner was denied Town of Esopus water hook-up in 2005.

Motion seconded by Sean.

VOTE:

Joe – In favor. The apartment is already there, it won't change the neighborhood at all.

Don – In favor.

Vic – In favor. I don't believe it will jeopardize the character of the neighborhood. He did a nice job so far and I have no objections.

Sean – In favor for the same reasons that Vic stated. We've covered the potential issues by the way the motion was written.

Karl – In favor. The current owners have done a nice job with this place. With the stipulations in the motion, the change to the neighborhood is minimal and not serious.

Motion approved.

OTHER BUSINESS

Joe asked if Linda Smythe had officially resigned and Chairman Cole said she has a letter of resignation but has not delivered it to the secretary yet. Joe asked if the Board could make a motion to remove her from the Board. Chairman Cole was not in favor of this and will wait for the letter of resignation.

Joe made a motion to adjourn the meeting. Seconded by Vic. All in favor. Meeting adjourned at 8:13 pm.

Respectfully submitted,

Joan Boris, Secretary
Zoning Board of Appeals