

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 May 20, 2014 Meeting

CALL TO ORDER: Chair, Kathy Kiernan, called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL

Kathy announced a new Board member: Melanie Marino.

Present: Vic Barranca, Joe Guido, Kathy Kiernan, Melanie Marino, Frank Skerritt, Dick Wenzel & Karl Wick

Also present: Diane McCord, Town Board member

MINUTES

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

VOUCHERS

Vic made a motion to approve the vouchers for secretarial work & the Daily Freeman. Seconded by Karl. All in favor.

Kathy explained the three-part process of the Zoning Board of Appeals.

INFORMATIONAL

No new applications.

PUBLIC HEARING

04-15-14-01

Shirley Schmidt
538-542 Old Post Road

area & use variances
71.2-3-22.100

Present were Shirley Schmidt, administrator of Gustav Schmidt estate, Elizabeth Decker, realtor, and Bill Welch, prospective buyer of the property for which the variance is requested.

Kathy noted that no members of the public were present.

Ms. Decker explained that applicant is requesting a variance to have two homes on one parcel and variances for setbacks. Kathy explained that an additional referral from the building inspector notes two setback variances required – one for 11 feet on the side and 25 feet in the rear. Ms.

Decker asked if another informational meeting and public hearing would be required. Joe stated that it was caught in time and brought to the attention of the building inspector. Secretary noted that the new variance requests were included in the legal notice to the Daily Freeman. Joe asked applicant if she understood what the new variances were for and she said that she did.

Ms. Decker explained that applicant received approval from the Planning Board for a subdivision, but no one caught the property line setback issue.

Joe asked if both of the houses were going to be rentals. Mr. Welch replied that one would be a rental and his son is going to buy the other and live in it. Mr. Welch and his son are buying the property together.

Ms. Decker stated that applicant is asking for the variance because it will not have an adverse effect on the neighborhood or the values of the neighbors' (properties).

Joe asked Mr. Welch if he planned on sub-dividing the property. Mr. Welch replied that he may ask the owner of the property at the rear (Nancy Rosen) to swap some land because she currently uses a strip in the back of applicant's property for a tractor path. Applicant stated that years ago her husband had spoken to Ms. Rosen about exchanging some road frontage on Old Post for the strip in the back, but nothing was ever formalized. Kathy asked if the property exchange would have been where the setback variances were needed, Mr. Welch replied that was correct.

Joe stated that he believes that property with two houses should always be at least four acres. Mr. Welch noted that it is zoned R40 so an acre is adequate but you want two. He said once he owns the property, if he makes a land swap (with Ms. Rosen), that would make it right. Joe noted that he would have to come before the ZBA again. Joe said he would like some safety measure in place stating that if the property is ever divided, the owner would have to come back before this board so that we don't end up with the minimal for each one of these houses.

Joe asked board members how they felt about this idea. Karl said he would not be opposed to a specific amount (of acreage) and he would also like to say that the total square footage of these two houses shall not be enlarged more than 50%. He does not want to see the houses grower bigger so close to the (property) line.

Mr. Welch stated that he can't see that happening. The houses are only 900 square feet each and he has no plans to make them larger.

Karl stated that this is a strangely-shaped lot and he would not be opposed to requiring four acres for the two houses. He said that would still leave more than three acres. Mr. Welch stated that the remaining acreage in the back is largely unusable. The only property that would be beneficial (to him) is the property to the left which Ms. Rosen is probably never going to use. Karl noted that a land swap would be beneficial to both parties.

Ms. Decker stated, “If the road frontage were traded for the part that she’s using in the back to make a straight line, it would allow for the right setback on the corner of the house.”

Frank stated that the shared well is two feet from the property line, which would not be allowed by the Board of Health by today’s standards. There is a 10-15 foot setback requirement. He spoke with the building inspector who pointed out that the houses and well were pre-zoning.

Kathy asked Board if anyone had an objection to voting tonight. No objections were mentioned.

Joe asked applicant is she was before the Planning Board. Mr. Welch replied that a sub-division was approved in January.

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

Karl noted a discrepancy in the section/block/lot on the survey and the application. Survey has lot 22 and the application reads 22.100. Secretary pointed out that the survey was prepared before the Assessor had assigned a new lot number to the new lot created after the subdivision. Correct lot is 22.100.

Joe asked how to describe the house that needs the variance. Secretary pointed out that the house nearest the western property line is #542. Dick agreed, as he had written down the house numbers when he visited the site. Joe asked how there could be two house numbers on one property. Consensus was that this is always the case. Each house needs its own address for 911.

DECISIONAL

04-15-14-01

Shirley Schmidt
538-542 Old Post Road

area & use variances
71.2-3-22.100

Motion

Joe made a motion to grant a variance from Article IV Section 123-11A to allow two houses on the same property and two variances from Article V Section 123-20 for house number 542 to allow a rear setback of 25 feet and a side setback of 11 feet with the following stipulations:

- 1. If this property ever gets sub-divided and is less than four acres, owner must come back before the ZBA and Planning Board,**
- 2. The total square footage of these two houses shall not be increased by more than 50%.**

Motion seconded by Dick.

VOTE:

Dick – I agree. I went to the property and looked at it. I could see it was really close. I guess

Tim got the measurement with the survey. I didn't see any changes. I was surprised that the building inspector let this go-to build a house when he said he was building a garage. And it's right on the road. I approve of the conditions that Joe put down – the stipulations are good as far as I'm concerned.

Joe - If this was a new building going up I would not approve this, but the houses have been there since 1972, I believe. There were obviously some mistakes made by both the Town and the builder and because it has been so long, I will vote for this variance.

Kathy – I vote in favor for the reason that Joe gave and also there's nobody here from the public, there's not a great change to the neighborhood.

Vic – I vote in favor for all the reasons mentioned. I don't think we're jeopardizing the character of the neighborhood.

Frank – I would approve it basically because its pre-zoning and all of the conditions have been there for so long. There's basically no change. The buildings have been there for as long as I've been alive so I don't see a problem.

Karl – I'll vote in favor. These are pre-existing buildings – they pre-exist current zoning by three years. As such, there will be no change to the character of the neighborhood. I think its time to codify this property and move on.

Motion approved.

Mr. Welch stated that the title company was concerned about the C/O. He asked how long that would take. Secretary said it was up to the building inspector. It's the next thing to be done.

OTHER BUSINESS

None

There was discussion on the date of adoption of the Zoning Code in the Town of Esopus. Karl said there were three versions, the latest being 1975. Original version may have been 1971.

Karl stated, for the benefit of the two new members, that this case was typical – nobody thinks of these problems until they need a C of O for a mortgage or title insurance. This would never have come to the Board's attention except for the need for title insurance. Secretary explained that an Abstract Search Report was requested by the title company and the report showed the two expired building permits from 1972.

Kathy asked if the building department's current procedure was to send out renewal notices after a year. Secretary said that was correct.

Joe made a motion to adjourn the meeting. Seconded by Vic. All in favor.

Meeting adjourned at 7:30 p.m.

Respectfully submitted,

Joan Boris, Secretary
Zoning Board of Appeals