

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 July 16, 2013 meeting

CALL TO ORDER: Acting Chairman, Joe Guido, called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Vic Barranca, Sean Fitzgerald, Joe Guido, Kathy Kiernan, Dick Wenzel & Karl Wick.
Excused: Don Cole

Also present: Alan & Barbara Small

MINUTES

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

VOUCHERS

Karl made a motion to approve the voucher for secretarial work. Seconded by Sean. All in favor.

Joe welcomed Dick Wenzel, recently sworn in as a new ZBA member. Dick has previously served on the Zoning Board.

INFORMATIONAL

No new applications.

PUBLIC HEARING

06-18-13-01

John & Gabrielle Berry
54 Maple Street

area variance
71.30-1-3

John Berry was present and he stated that he would like to replace a 2-car garage that has been torn down with a demolition permit. Applicant would like to erect a steel structure, described as an "express building" which means that it is a kit. The kit comes in two sizes, smallest is 30x30. Applicant wishes to use this as a 2-car garage for his son, who lives at this property, to get his

vehicles under cover and to maintain all of their vehicles – currently they have six. Mr. Berry's son is a mechanic at Erichsen's Auto and his hobby is restoring old CJ Jeeps for off-road work. The building would have a lift and applicant's son would work on the vehicles on his days off. Applicant stated that the "amount of ground coverage for this new building exceeds that which is apparently the allotted amount for a lot of this size."

Alan Small, 50 Maple Street, is a contiguous neighbor. He is concerned with the "footprint" of the building and the close proximity to his property line. Mr. Small also worries that there will be a business being run (out of the building). He stated that his parents own the house next door and rent one side of it. This is the side that Mr. Berry's garage will be on. Mr. Small is concerned that the tenants would be hearing and seeing the car repairs all the time. He is here tonight because he "wants to make sure that it is not going to be a business" and that it will meet the zoning regulations.

Vic asked Mr. Berry if the vehicles on his property were all registered and he replied that they were.

Joe stated, for Mr. Small's benefit, that applicant's setback from their property line is within zoning requirements. (The building) is almost six feet from the line and the requirement is five feet.

Joe said that one of his concerns is the water run-off from the building. He asked Mr. Berry how he was going to deal with this. Applicant replied that there is a storm drain currently in the street and he will bury four-inch flexible pipe running to the storm drain. This will be buried under the new driveway he will put in.

Mr. Small noted that run-off in this neighborhood goes out into the street and becomes a sheet of ice in the winter. He wondered if Mr. Berry could direct the run-off down the back of the properties. Applicant said he is considering this.

Mr. Small stated that "if it meets the setbacks and its not going to be a business, then. . . (he has no other objections)."

Applicant replied that it is definitely not going to be a business. Currently his son rents space in the community to work on the vehicles. This would allow him to be at his residence.

Joe asked if the temporary buildings on the property would be removed and applicant replied that they would. They were put up to house the son's equipment because they couldn't use the old garage.

Karl asked Mr. Berry if his house is 25x28 feet and if it is a two-story. Applicant replied that was correct. Karl noted that he was figuring out if a home occupation was appropriate for this case, but the square footage of the new structure is over the requirement. The outbuilding is

larger than the footprint of the house.

Dick asked why applicant wanted a 30x30 building. Applicant stated that his son has a big truck, jeep, ATV, snowmobile and a trailer. Right now they are in the yard and the building would be used to house the vehicles.

Joe noted that applicant had submitted the price difference between the larger and smaller buildings. Mr. Berry said he originally looked at a 24x30 building, but this smaller size is not an “express building” or kit. It would be an engineered building and the cost is much higher, almost double the cost of the 30x30 kit.

Vic asked how the steel building was going to fit the character of this residential neighborhood. Applicant stated that he is willing to put vinyl siding on the building to have it fit in with the nature (of the neighborhood).

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

Joe announced that the decisional meeting will be next month and that some of the Board members will visit the property.

PUBLIC HEARING

06-18-13-02

Gary & Susan VanVelson
771 Broadway

2 area variances
64.03-5-19

Susan and Gary VanVelson were present. Ms. VanVelson explained that they wish to convert their property on 9W from a single family residence into a tourist home. They need two variances, one for depth of the lot and one for setback from the neighbor’s lot.

Joe asked about the driveways on the property. Ms. VanVelson said that the original will not be used for the Tourist Home, as it is too dangerous. It remains a right-of-way for the neighbor. Applicants moved the driveway and the DOT suggested signage, which is installed.

Joe asked if the set-up of the property has remained the same. Ms. VanVelson stated that they haven’t done anything to change the footprint of the house. They painted, changed the sidewalk, put a fence along the back. The back of the property drops off sharply.

Joe asked about the roadway that runs behind the fence at the rear of the property. Mr. VanVelson replied that the neighbor’s children ride 4x4’s along it.

Dick asked where the setback was short. Ms. VanVelson replied the neighbor (to the north), Tsitsera, between 5-10 ft. Secretary stated that there was no referral from the building inspector for the second variance for setback variance, but Tim took the following measurements:

1. house is 36 ft. from rear property line
2. garage is 6 ft. from rear property line
garage is 5 ft. from north side property line
3. parking area is 22 ft. from rear line
parking area is 20 ft. from side line

Karl asked if every building on the site plan existed currently and Ms. VanVelson replied that was correct.

Joe asked if there were eight rooms. Applicant replied, "Five bedrooms upstairs and one downstairs plus a kitchen.

Karl asked if applicants have asked their neighbors if they would be willing to sell a piece of property to allow applicants to expand. They have not, but Ms. VanVelson seemed certain that they would not be interested in selling. Her realtor told her that she had asked and the neighbors declined.

Joe stated that the back property drops off 10-15 feet and the road is down below. Karl said that property would be useless even if they were to purchase some of it.

Vic asked how many families could occupy the house. Ms. VanVelson replied that there were five bedrooms – they each had a double bed and the room downstairs has two twin beds. Vic stated that parking could be an issue with five families staying there. Ms. VanVelson explained that they have more parking than is required. There are five spots, which was recommended, but there is room for more cars.

Joe asked if they considered guest house to mean short term stays, like a motel. Applicants replied that was correct.

Karl asked, since the parking setback is an issue, can the parking area be re-located? Both applicants replied, "No." They have expanded the parking area to be adequate. Karl explained that the Board needs to explore all options to grant the most minimal variance possible.

Joe noted that the Ulster County Planning Board has no problem with this project.

Ms. VanVelson stated that she wanted people to come and enjoy Ulster Park.

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

Joe stated that the decisional meeting will be next month. Applicants were asked to return.

DECISIONAL

04-16-13-01

Trevor Schultz
219 Hardenburgh Road

2 area variances
71.01-3-25

Trevor Schultz was present, before the Board with two variance requests. Joe stated that Dick Wenzel will not be voting on this case because he was not present at the public hearings.

Joe noted that Mr. Schultz had provided written notice of his wish to withdraw a request for a parking variance.

Karl made a motion to accept the withdrawal of the application for a parking variance.

Seconded by Vic. All in favor.

Joe stated that the other variances are for having livestock less than 150 ft. from the property line and to construct a barn on existing foundation which doesn't meet the setbacks.

Karl noted that the variance is for an outbuilding forward of the main building.

Karl asked Mr. Schultz if he was planning on re-locating an existing antique barn. Mr. Schultz said that is the plan if he can find one with the right dimensions. If they need to re-build, they will try to re-build something in the style (of the time).

Joe stated that the building will be used as a meeting hall. Applicant added that it will be a multi-functional building, cafeteria, and workshop center in conjunction with the retreats.

Motion

Karl made a motion to grant a variance from 123-21 C(5)(a) to allow an outbuilding forward of the main building with the following provisions: 1. If a new structure is built, it shall not exceed the square footage of the existing foundation. 2. If a re-located building is used, it shall not exceed the square footage of the existing foundation by more than 25%. 3. The building shall not be closer than 70 feet from the front property line. 4. Town of Esopus Planning Board shall address the issue of the septic system.

Motion seconded by Kathy.

VOTE:

Karl – In favor. I feel this will not make any change to the character of the neighborhood. Historically there was a building there. This will do no harm, it will benefit the applicant and it's really a minimal change to the site as it currently sits.

Sean – In favor for the same reasons as Karl. It is not a substantial request, as the foundation is existing. The impact will not be detrimental to the character and quality of the neighborhood.

Vic – In favor, providing the Planning Board takes into consideration the septic system and leach field. I don't think the building will jeopardize the character of the neighborhood.

Kathy – In favor for the reasons stated previously and I don't think it will have an undesirable or adverse effect on the neighborhood.

Joe – I vote against this. If it was a regular garage for normal use, I would not have a problem, but the amount of people using it and the activity in the building I think is excessive.

Motion approved.

Joe asked applicant how far from the property line he wanted to have the livestock. Mr. Schultz replied, "75 feet." Joe noted the variance is for 75 feet because the requirement is 150 feet.

Sean asked if an expiration date could be put on a variance so that if there is a negative impact in the community, the variance expires and the livestock could be removed from the property. Joe replied that usually a variance is for the life of the property, but the Board could put a stipulation in the variance language.

Karl stated that he researched the soil types at the site and gave the secretary a written report. He noted that the western half of the property is Nassau Bath Rock outcrop complex and is very permeable to water. The eastern half of the property is a different type of soil, well drained, a normal type of soil. His source was the U.S. Soil Conservation Service. He stated that the western part of the property is the higher part, above the neighbors' houses. He noted that historically this has been a farm but the situation in the neighborhood has changed since now there are houses.

Vic stated that these two decisions that the Board has to make are just a small part of this whole process. The Planning Board has a lot more to say about this.

Joe told the Board to do what they are comfortable with, for example, put provisions in the variance that the Planning Board must review certain items; but he cautioned against counting on anyone else to resolve a concern that a member of this Board may have.

Motion

Sean made a motion to grant a variance from 123-11C(2)(b) to allow livestock, specifically pigs and chickens, within 75 feet of the property line, when the requirement is 150 feet. This variance shall expire in three years, at which time applicant would be required to re-apply for the variance if he desires to continue to maintain livestock less than the required 150 feet from the property line.

Motion seconded by Karl.

VOTE:

Karl – Against. I have a concern about the permeability of the soil, the lack of thickness of the dirt layer. If we had four feet of sandy loam, that would filter quite well. We have approximately a foot of soil on top of permeable rock. The natural shape of the western edge of the property concerns me. I like the three-year trial period concept. I don't know if there is a precedent for that. Assuming that that is allowed, I think it is a clever concept. The only way to know is to try it. This makes the decision very difficult for me. I would've voted no without the trial period. I've considered a lot of things, I've seen videos of run-off in that area. My family raised pigs for a time. Anything not an herbivore the waste products can carry more diseases. I'm going to have to vote against this, although it is a tight decision.

Sean – In favor. While I understand Karl's concerns, as well as the neighborhood concerns that were voiced, I do believe that there is a plan in place to deal with these, which is why I wanted to grant the time period to allow this to take place. By sun setting the variance, we could re-address the issue at a later time. I did not think an undesirable change would take place. However, if I am wrong, the sun setting time would allow us to address that.

Vic – Against. The adjoining properties had major concerns about run-off and the character of the neighbor. In good conscience I don't think this is a wise decision for me to say in favor of, so I am definitely against it.

Joe - Against. Because of topography and the run-off. I even have doubts if 150 feet would be enough in this situation.

Kathy – Against, for the reasons that Vic stated and I'm concerned about the number of fowl that would be allowed on a property of that size and the concerns of the neighbors.

Motion denied.

Karl pointed out that this doesn't preclude applicant from having livestock on other areas of the property. Mr. Schultz said he didn't think that was going to happen, but he appreciated the thought the Board gave this matter.

NEW BUSINESS

Joe said that the Board has access to Miles Putnam if there are issues on which we need his expertise. He is on retainer with the Town.

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

Meeting adjourned at 8:16 pm.

Respectfully submitted,

Joan Boris, Secretary
Zoning Board of Appeals