

TOWN OF ESOPUS
P.O. Box 700
Port Ewen, NY 12466
Zoning Board of Appeals

APPROVED

845-339-1811 XT.125

Fax 845-331-8634

TOWN OF ESOPUS ZONING BOARD OF APPEALS
August 18th, 2015 Meeting Minutes

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

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Vic Barranca, Joe Guido, Kathy Kiernan, Melanie Marino, Karl Wick, Dick Wenzel,
Sheila Pratt - Secretary

Present: D. McCord, Town Board Member

Applicants: Christopher Zell representing for Ralph DiNome
Wesley & Mary Anne Hayes,
Nathan Dotson

MINUTES

Kathy asked for motion to approve the July Minutes, Vic made that motion, second by Joe. Karl had a correction which we clarified and amended. All in favor to approve minutes.

VOUCHERS

Kathy asked if all had seen the voucher for secretarial work? Joe made a motion to approve, seconded by Vic; all in favor.

PUBLIC HEARING (CONTINUATION)

07-21-15-01 Area Variance – Chris Zell representing for Ralph Di Nome
687 Broadway, Ulster Park, NY SBL# 64.03-1-18

07-21-15-02 Area Variance (3) Nathan Dotson
103 East Main St., Port Ewen, NY SBL# 56.60-6-03

DECISIONAL

07-21-15-01 Area Variance – Wesley and Mary Anne Hayes
677 Broadway, Ulster Park, NY SBL#64.03-1-14

Kathy advised the applicants there were three parts to the process, this being the informational, next being the public hearing; then finally the decisional phase of the application.

Kathy then asked the rep for the Variance application for Mr. DiNome to step forward” express what they wanted and the reason for it.” Mr. Zell approached with the map for the property. “What this is, um is there are five cabins down on Mirror Lake, seasonal cabins of which Mr. Di Nome owns three.”

Kathy-” I’m sorry I don’t mean to interrupt, would you please state your name?”

“**Chris Zell**, I’m the surveyor for Mr. Di Nome. So what it is on 9W, on Mirror Lake; there are five seasonal bungalows there. Mr. Di Nome owns the three to the south on the map, and Ms. Alden owns the two cabins to the north. He originally sold them to her, he would like to sell her one more. As you can see all of the cabins were pre-existing non-conforming as far as set-backs. So when he sells this to her which we have before the Planning Board as a Lot Line Revision, we end up splitting the two remaining bungalows evenly but we don’t have the side yard setback, so we are asking for a variance for what we have existing there is approximately 16 feet evenly split between the two bungalows. So the other thing we would need is a variance because before the lot line adjustment Mr. Di Nome had the 40,000 sq. ft. that was required in this particular zone after it he won’t. Ms. Alden didn’t have it and she will be within a few hundredths of having it so that’s the situation; none of these meet the zoning setbacks right now, apparently they never did. So that is what we are asking for is a side yard setback variance and an area variance so the Di Nome parcel would go below the 40,000 sq. ft. requirements.”

Kathy-” So you’re asking for variances for the side yard setbacks for both of these?”

Mr. Zell (Holding Print) “Well yes this is where the existing line is right now so you can see it doesn’t comply here as it is now, it doesn’t comply up here either. So all of these were existing and none of them comply with your present day setback. So in order for him to sell her one additional bungalow the best we can do is split the difference between the two.”
The side yard setback is 20 feet, the best we can do is 16 feet.”

Kathy and Joe are looking at the prints.

Dick -“Are these all rented out, these are rentals?”

Mr. Zell -“No these are not rentals, they are privately owned and being used by the owners. There is none of them being rented that I am aware of.”

Dick “ So if she buys this is she going to sell it outright or is she going to keep it?”

Mr. Zell -“No she is going to join it to the other two so she is going to put it on the same lot, include it in the same lot, she’ll have three seasonal bungalows; she does not intend to rent them, they are to be used by family. Then Mr. Di Nome would keep the remaining two.”

Karl -“What is the setback from the second cabin to the current lot line?”

Mr. Zell -“I’d have to scale that, it looks like about eight or nine feet the way it is right now. So none of these ever complied. We’d be making that somewhat better because we’re splitting it, it’s the best we can do. It’s front yard, rear yards, the only thing is the Di Nome parcel originally did have the 40,000 sq. Ft. but won’t after it sells the lot. She did not and she will have almost 40,000 sq. ft., close to 9/10th of an acre and she’s going to have 8.91 so she will be slightly better, almost compliant. So that is why I am here the Planning Board needs a variance, variances.”

Karl -“You need another variance for the lot size also correct?”

Mr. Zell- “Yes, we need two variances, one for the side yard setback and one for the lot”

Joe Guido -“You need three, (2) side yard and one lot size, right?.”

Kathy -“Two on one parcel and one on the other.”

Mr. Zell -“Technically yes, you’re correct.”

Joe - “You’re representing this person,(pointing to print)?”

Mr. Zell -“ I’m representing both of them, actually Alden is paying for this, Di Nome is the current owner, this is confusing because they’re all so close together.”

Joe- “ And you have, I assume, the affidavit saying that you can represent both parties?”

Mr. Zell -“I do. I do have that, I have copies I think. (shuffles through his papers).I have the letter from Mr. Di Nome.”

Board members look through the application as Mr. Zell looks for documents.

Joe - “Mr. Zell these have to be notarized also,”

Mr. Zell-”Yes, which ones? If they have to be notarized I will have to send them back

Joe - “Well yeah you have notarization from both parties. So we need notarization from both Parties saying that you can represent each of them.”

Mr. Zell -“Yes I have letters from both parties but neither one of them are notarized.”

Joe - “Yeah because we have no way of knowing who’s signature is what,”

Mr. Zell “Okay.”

Kathy -“Does anybody have any other questions or anything else they want Mr. Zell to get us?”

Joe - “Yes I’d like to know how they get access to these? To the driveways?”

Mr. Zell -“The access to these is right here (pointing on print)it’s an easement ends up to the property line right here, used to run up to this property line. That will be extinguished if she purchases this bungalow, if not this 10 ft wide right of way runs up right to this property line currently. All of the lots have frontage on Rt. 9 W, they could have driveways to 9W if she wanted to but they are all using this driveway right here now. So right now everyone uses the same entrance, same gravel driveway. They all have the right to pull water from this well house.”

Kathy -“Anything else anybody wants to know before the next meeting, or for the next meeting?, okay”

Mr. Zell- “So you just want the two notarized letters?”

Kathy -“Right letters of agent and we’ll have the public hearing next month.”

Mr. Zell - (Pointing to print)” This is the way the property line is right now.”

Kathy -“Um hmm, (nodding), and they refer in this application to Lot #17,18,do I have the numbers right?”

Mr. Zell -“Well they’re referring to the UC Tax map numbers.” (Both he and Kathy look at map)

Kathy “Right, so is this 17, and this is 18?”

Mr. Zell -“Um hmm, if you want me to show those on there I can.”

Kathy -“No that’s alright as long as I know where they are. Okay so we’ll see you on Oct. 15th.”

Mr. Zell -“Okay very good, thank you.”

Kathy -“Great” Mr. Zell then leaves the meeting.

Kathy – “Okay the next case on the agenda is the public hearing for Wesley & Maryanne Hayes. We received from the county planning board a response of no county impact and a memo from the TOE Planning Board with a “No comment.” So do you want to come up here? Did anybody ask for anything?”

Mrs. Hayes -“Did you receive the maps?”

Kathy -“We did” (Board reviews new map provided.) Any questions?”

Joe Guido – “Usually when we allow someone to put a carport we always like it to be blending in with the house sort of, and to me it doesn’t. Did you consider color?”

Mrs. Hayes -“Yeah, well, it’s a close enough, I did try to match the house color but I couldn’t get that color so I went with a color that blended in with the environment, if I went with red it would have been barn red. It would have stood out like a sore thumb. I mean the green car out there stands out more than the garage.”

Kathy -“ Is there anyone from the public with any comments?” (No comments are made.) I guess we didn’t hear from any neighbors, Sheila you didn’t get anything did you?”

Joe – “Just for the record one of the questions I had was why wasn’t it put alongside the house? The applicant gave information that there was a well there, underground water, gas and drain lines.

Mrs. Hayes -“We went back as far as we could.”

Joe -“I just want it on the record that was addressed and these issues were addressed also.”

Kathy- “No questions, no comments , anything? I guess there is nobody here from the public that has any comments so we are going to close your public hearing, you can stay if you want and wait after the other public hearing and then we can discuss whether the board feels comfortable voting on it tonight or if we will wait till next month.”

Mrs. Hayes “Okay we’ll wait.”

“ Okay the next public hearing is for Nathan Dotson, and three area variances for a garage. Did we ask him for anything? “

Dick – “We asked for larger scale drawings?”

Kathy -“ Are these the new ones, oh its probably this, but we can’t really read the dimensions on it, and before we even start that we received a response from the Ulster County planning board saying “there is no county impact and we received a memo from the Town planning board and I’ll read it;

“The TOE Planning Board reviewed the ZBA referral re: the above at the Wednesday, August 12th meeting and after careful review we offer the following comments; this is a potential accessory structure. The plans show a building that is far more than a garage and has the potential to be an apartment over a garage with dormers. We refer to Zoning Codes 123.21C(1a), 123.21C(5a). If you have any questions or concerns please contact us.” So that was the comment from the TOE Planning Board. So is there anybody from the public here that wants to comment?”

Mr. Dotson – “ I may have a couple extra of these in my car”

Kathy -“ I that easier to read? Are the dimensions larger or; tiny but I still can’t read them. I think that ...

Joe – “ The concerns are that why do you need a garage that size, I mean it’s a concern of mine also.”

Mr. Dotson -“ So for the two cars I need to have the 24 X 24 ft. and then just storage space above. I have a lot of stuff from Christmas and lots of stuff in the basement I would just like to get stored up top.”

Joe -“ And I have had a look at the property and honestly I don’t see why you can’t back the garage up some.”

Mr. Dotson -“Well we have a pond and a tree there and if I go back any further I’ll start encroaching the corner of the house like you can see on the drawings, and I would prefer to not have to do that, I’m not changing anything and keeping with what the neighborhood already has.”

Joe and Mr. Dotson look over the prints. They discuss the parsonage building and its location to the street line

Joe -“ I don’t think we have ever granted a variance for being right on the property line.”

Kathy-” That truly, I mean if you could move it back.”

Dick -“ I think the Building Inspector recommended three feet.”

Joe -“I don’t think we’ve ever done anything less than five. Karl do you remember anything less than five?”

Karl -“I agree we may have once or twice in my 26 years granted three feet or three and a half feet. I too don’t like it on the line.”

Mr. Dotson -“Yeah and basically if it weren’t for the neighbors home already being there I would have had it drawn differently. Again you have seen that the yard is sloped and very small so I don’t want to have to reduce it further.”

Karl -“ Would it help your case if you took measurements of other structures and their set backs?”

Mr. Dotson -“ I believe the Mc Nierney’s house is right on the property line on Main St. I have not really looked, I mean I wasn’t going door to door to check.”

Members are looking over the prints.

Melanie – “Did you purchase this property or was it inherited?”

Mr. Dotson -“ Purchased, I think it was owned by the Deisings previously.”

Kathy -“So part of the variance process is that we do look to grant the minimum variance so it’s probably the opinion of most of the board that right on the property line is not going to do it. So can you move it back three feet if we asked for five? “

Mr. Dotson -“I think five would be excessive because I think when I took the measurements And started to look at things and spoke with the lady in the Building Dept. she had mentioned five feet but that pushes it way back. I mean I’d like to keep as close to that property line as possible. I think that if it’s anything further than a couple feet back from that I might just have to scrap the drawings and the plan, and I prefer to keep as close to that line as possible.”

Kathy -“You might be right you may have to scrap the plans because of the size of the garage and the size of the property and as Joe & Karl have been here longer than I have and I’ve been here a lot of years that we’ve ever granted a variance on the property line.”

Mr. Dotson -“Right, and again I was just trying to use as an example the neighbor’s home that’s on the same street and pretty close proximity to the street.”

Kathy & Joe both start to speak,” Go ahead Joe.”

Joe -“In order to grant variances these are some of the criteria that have to be met. (Hands Mr. Dotson Use and Variance sheet which he reads)

Mr. Dotson -“Okay so at least the two that are looking at the neighborhood I don’t see a discrepancy with but the others I mean that’s where you are going to have to put some thought into your decision.

Vic -“Well setting it on a property line I will tell you right now I am not in favor of.”

Kathy -“And I don’t think anybody is in favor of that. So if that’s the major concern that if it’s on the property line, if we vote that we do not vote in favor of that and the other variances we don’t have to discuss then.”

Mr. Dotson -“Right, so what’s the minimum I would be looking at, can I bring it a foot back?”

Kathy -“This is just my opinion, I would like to see three feet; but some other members of the board might want more than that.”

Mr. Dotson -“Yeah so if I go that route then the corner of the garage will be encroaching on the corner of my deck within about five feet.”

Vic -“What are your over hangs on the house, how big are they about 12 inch over hangs, on the garage?”

Karl -“On the front eaves?” On the garage, it’s easier to project.”

Members ask to see the larger map for dimensions and view of garage.

Vic -“So now if you gave him three feet it’s down to two feet.”

Joe -“Hold the Public Hearing open, go down and look at it, you can stake out with at least three feet and next month we’ll see where you’re at and where we’re at but as it is right now I would want five feet and most board members want three feet.”

Kathy and members look at the larger print.

Joe -“I mean you’re going to have to do some compromising because if anything happens with the road it’s going to be a headache.”

Mr. Dotson “Yeah it would really be a headache for the neighbor too.”

Joe -“Yes, but I’ll go down there and look at it again.”

Kathy “Has everybody been down to see the property, do you want to hold the Public Hearing open until next month?”

Mr. Dotson -“Oh yeah, Bernice didn’t receive her letter and she’s worried about drainage but Deb from Buildings explained to her the location.”

Kathy -“Oh okay, so I guess if the letter wasn’t received we’re going to have to hold the Public Hearing open until next month.”

Joe -“I make a motion that we hold the Public Hearing open until next month.”

Kathy -“Do I have a second?”

Vic -“Second”

Kathy -“All in favor?”

All Board Members “Aye”

Joe -“If you could just stake out where that garage is going?”

Mr. Dotson - “Sure.”

Joe “We’ll have a better idea when we look at it.”

Mr. Dotson- “So I’ll stake it about two feet back from where the property line is now just so I can at least see where that actually sits and how far that pushes back.”

Kathy - “Okay good.”

Mr. Dotson- “Do you want any additional prints I think I have two more in the car.”

Sheila “Yes thank you that would be helpful.” Mr. Dotson goes to retrieve the other set of prints.

Kathy “So just a quick survey of the board, does everyone feel comfortable voting tonight on the Hayes application? Does anybody want to make a motion?”

Dick “I’ll make the motion.”

Karl “I have a question, the forty feet does that refer to the distance from the carport to the property line?”

Mrs. Hayes- “No that’s to the center of the road.”

Dick –“I make a motion that we grant a variance to Wesley and Maryanne Hayes for their carport which is already installed, Section 123-21(C) 5(a) yes to allow it to be in the front yard, in front of the house.”

Vic- “I’ll second that motion.”

Kathy – “Do we want to take a vote, do you want to go first? Oh okay Karl we’re going to start with you”

Karl –“I vote in favor, I’m not happy that this was constructed and then you went for the variance. I don’t quite buy that some former owner told you that you didn’t need a permit to build that, but I look at it as if you are coming with the intent to build it. I don’t think it changes the character of that neighborhood at all, in fact the view is great, so I don’t see a down side to it so I will vote in favor. But in the future check out and see if you need a variance before you build anything.”

Mr. Hayes – “It’s not going to happen anymore I’m too old. This is the last for me”
The board then begins to vote.

Vic –“I’m in favor, I don’t see it jeopardizing the character of the neighborhood and for the reasons Karl stated I vote in favor.”

Melanie –“I’m also in favor I think it doesn’t harm the character of the neighborhood at all so I’m in favor.”

Kathy –“I’m in favor for all the reasons previously stated.”

Joe –“Because of the gas line, drainage pipe and the well, I vote in favor of this but I do think it does alter the character of the neighborhood but our hands are tied on it.”

Dick –“Alright I vote in favor because I didn’t feel it changed that much, I drove onto the property and it kind of fits in with the layout of the driveway itself and the way it’s off to the right side and there’s hedges there it seemed to be appropriate to where it is.”

Kathy –“Okay so you have your variance.”

Mr. Hayes -“Thank you dear.”

Kathy –“That’s all you need.” Mr. & Mrs. Hayes leave the meeting.

OTHER BUSINESS

Kathy: “Under other business the first thing I want to bring up is the schedule that we have regarding the meetings and the cutoff date for applications, and we’re going to change, and I know it’s only four months but we’re going to have to change the cut off date to two weeks before the next meeting because this is not working with a week before, we’re just not getting the

information. It doesn't give Sheila enough time to make all the copies, do the Public Hearing notices and the letter's and it's a scramble, it's too much. So we will change it to two weeks."

Joe – "I make a motion to make the cutoff date two weeks before the meeting?"

Vic – "Second."

Kathy: "All in favor?"

All board members respond - "Aye"

Kathy – "Other business, Diane brought us a letter to meet on Oct. 27th."

Vic – "I'm not sure why we need this meeting?"

Joe – "Most of the applications that come before us need referrals. I've spoken to a couple of the Planning Board members about this. We need concise information on the application and clarification by the Building Inspector would be helpful. We only refer back to them when we need further clarification. Now I'll be honest I didn't know this that they don't deal with single residence properties, it has to go through the Building Inspector, we did that as a courtesy. We did what the County planning board asked us to do on the Cuthell property. And the other thing is I don't know if you all got copies of the "Use and Area Variance Sheet" but this used to be included with new application but they haven't been included lately so we need to have this in with new applications."

Sheila – "Okay so do we need to memo the Building Dept. about that?"

Joe – "Yes"

ADJOURN

Kathy "Okay, any other business? Motion to adjourn."

Vic - "Second."

Kathy- "All in favor?"

All Board members – "Aye." The meeting is then adjourned.

Next meeting is at 7:00 pm on September 15th, 2015

Respectfully submitted,
Sheila Pratt, Secretary
Zoning Board of Appeals 9/4/2015