

**ZONING BOARD OF APPEALS MEETING
JANUARY 16, 2018**

PRESENT: Kathy Kiernan, Chairperson
Joseph Guido
Karl Wick
Vic Barranca
Glen Kubista
James Banks

EXCUSED: Frank Skerritt

Chairperson Kiernan called the meeting of the Town of Esopus Zoning Board of Appeals to order at 7:00 p.m. beginning with the Pledge of Allegiance to the Flag.

Chairperson Kiernan asked the Board if everyone read the minutes of the November 21, 2017 meeting and if there were any changes.

VIC MADE A MOTION TO APPROVE THE NOVEMBER 21, 2017 MEETING MINUTES SECONDED BY KARL. ALL MEMBERS WERE IN FAVOR.

VOUCHERS:

April Oneto (secretarial services)..... 5 hours

KARL MADE A MOTION TO PAY THE VOUCHER AS SUBMITTED, SECONDED BY JOE. ALL MEMBERS WERE IN FAVOR.

INFORMATIONAL MEETING:

**01-16-18-01 Gregory & Patricia Messina
206 Tilden Street
Port Ewen, NY
SBL: 56.60-6-46
Area Variance**

Both applicants were present. Gregory stated that in 1999 they purchased a trailer with a dilapidated garage on Tilden Street. He stated that the individual he purchased this from became his tenant for 10 years and when he passed away they removed the trailer and rebuilt the garage. The zoning changed in that area and now it is R40. This used to be R12. They would like to build a 1,600 sq. ft. home in keeping with the neighborhood.

Greg stated that he needs an area variance to meet the lot depth requirements. R12 was 108 and R40 is 150 and they do not meet that. He stated that there was a structure there and it was not

replaced prior to the new zoning. He also stated that the lot coverage is 15% and upon completion they will be at 16 ½ % coverage.

He stated that the previous structure met the R40 requirements at the time and then the zoning changes and he did not realize that there was a two year limit in which he could build on the property after the demolition. If he had known this, he would have left the trailer there until he decided what he wanted to do with the property.

Sal stated that they meet all of the setback requirements but do not meet the depth requirement.

Mr. Messina submitted pictures of other houses in the neighborhood and a picture of the type of house he is planning on building.

Joe asked about the garage. Mr. Messina stated that while he is building the house the garage will stay and be used to store machinery. Once the house is build he plans on taking the garage down and that will be where the driveway will go. Joe stated that we will need the actual size of the footprint for the house. Sal stated that it is 32 x 64. Mr. Messina stated that it will be two story house and it will be between 1,600 sq. ft to 2,000 sq. ft. Joe requested picture of the actual trailer that used to be there for the next meeting. Joe asked if Mr. Messina minded if some of the board members stopped down to look at the property. He had no problem with this.

Public Hearing for this project will take place at the February 20th meeting.

PUBLIC HEARING:

**11-21-17-01 Christopher Carfora
50 Chambers Road
Esopus, NY
SB L: 80.1-3-27
Area Variance**

Christopher Calfora and Michael Vetere, III and Frank Galli were present for this application.

Michael Vetere stated that they are back looking for an area variance over Chambers Road. They submitted some pictures and a Title Search that shows that they do have a right-of-way rather than fee access over this road. The Town Zoning says that they need to have 50 foot width leading from the highway to the parcel in question. They have a 30 foot right-of-way and they are asking for an area variance of 20 feet over the width of the right-of-way leading from the highway to the parcel in question.

Chairperson Kiernan asked if there was anyone from the public who would like to speak.

Joan Burroughs 4816 Tilden St., Washington, DC

She questioned if they spoke to their neighbors. Michael stated that this road is already in use so access and egress is known. He state that it is called prescriptive rights in legal terms. They are

not asking to take more land from anybody. They are asking them to allow them to use what is there. This will have no effect on the adjoining neighbors at all. All they will see is a vehicle traveling down to the site. He stated that they are asking for the town to let them use a piece of land that is 30 foot wide rather than 50 feet wide. Michael stated that they have always had the right to travel over this road and even if they did not have it in writing what they do have is a prescriptive easement by use.

Michael stated that they actually did a topographic review of the entire road and he showed a 45 foot turning radius which can be seen in the pictures submitted. This is what he is showing for a turnaround for emergency vehicles. They are basing this for the fire company for a C Grave Ariel Scope 2, 95 foot ladder truck. He does not believe that the Town of Esopus has a truck that big. This is just to show that they can fit a large emergency vehicle turning around. He stated that the existing grade going in is between 15% - 20%. This has been this grade for an eternity. He stated that if they were to go in and change that they would be changing everybody's access greatly. He said that the question is how they could meet a specific grade in a 30 foot width. Michael stated that from Route 9W down to the Karneth driveway they are at 15% and from the Karneth driveway to where they turn they get closer to the 20% and then back down to the 15%-17% range. He stated that they basically cannot do anything about all the way down. They are in a 30 foot width and how would you do any type of regarding in a 30 foot width?

Joan asked the reason that they are doing this now. Michael stated that they have to be able to have the right to get a building permit. Chris stated that they want the right to build a single family house on that lot and there are three other houses on that road. Joe stated that this is the problem. There are three houses already and by town law it should be a road. Chris stated that it used to be Ice House Road and now it is Chambers Road. It is a private road. Mike stated that it boils down to the fact that they have access but they do not necessarily have the right width and maybe not the right grade but it becomes a question of where we begin and end in denying someone access to what is a very valuable piece of property. This is what the town has to take into consideration. This piece of property has underwater rights which are deeded from the State of New York. Somebody could put a boathouse or dock there.

Karl stated that the Title Search is incomplete. It mentions Liber 1145 and he would like to know the date for this. Mike stated that this was not performed by him. It was prepared by an attorney and if he has questions that would have to be something that Chris will have to take back to his attorney. Chris stated that this was a Title Search done in the town and the county. Karl stated that it mentions the right-of-way but it does not give the date that the deed was executed which is pivotal to how that compares to when the zoning was enacted. Karl stated that it is the first deed in the Title Search that specifically mentions the right-of-way. It is listed as Liber 1145, page 802. He feels that the date would be importance. After reviewing the material in question, Mike stated that it was 11/26/1963. Karl stated for the record for his vote this counts in their favor. He stated that nobody in 1963 could envision that the town would want 50 feet for the purpose of building a dwelling on the property. Joe stated that he thinks that when it was subdivided the zoning code was in effect. Karl felt that these dates needed to be checked. Karl stated that he does not think that there is any question that they have access to the parcel. The question is what they can do on the parcel.

Chris stated that he never asked for a building permit. He came to the Planning Board in 2009 for a pre-submission meeting because he wanted to subdivide the lot into two parcels. He was told that it would be considered a major subdivision. He was told that it would take some time to go through the process and it may not be approved. He then asked about building one single house and he was told he needed to go for a building permit. He never requested a building permit for 10 years. If he had known this, he would have done this a long time ago. He stated that he purchased the top parcel and the lower parcel and he would have dealt with this issue 9 years ago.

Sal, Building Inspector, has contacted Peter C. Graham, Esq., Zoning Board attorney, and requested that he look at the Title Search. Chris stated that he encourages the Board to have their attorney look at the right-of-way.

Chairperson Kiernan stated that the Public Hearing will be held open until next month. Joe informed the applicant that the hearing is being held open because we need to hear back from the Board attorney. Applicant was told to call before the next meeting to find out if we have received the attorney's opinion.

Grading of the road was discussed. Mike stated that there is not much you can do with the top of the road. Once you reach Chris' property they could change the grade. Sal asked about the grade. Mike stated that it is more towards the 20% - 21% grade as you get to Chris' property. Chris mentioned another parcel in the town that is much steeper but he was told that this was pre-existing.

Mike asked if it was going to be Chris' responsibility to come up with a grading plan. There is no reason for him to wait another month to find out that he needs this. Joe said that it would be nice to have that information. He explained that the Board needs reasons to grant a variance. Mike stated that honestly he does not think there is anything that can be done from Route 9W to Chris' property. He stated that they are within 30 feet and there are stone walls on the side of the roads. How do you change the grade? They could do something with the grade beyond Karneth's property. Joe asked the date the pictures of the road were taken. Chris stated that they were taken in 2014 and the road is overgrown at this point since he had not done any work on it but you can still get down there. Joe asked if he had permission to go down the road. Chris said that it is a private road but the Board members have his permission to go down there. Chris stated that there are a ton of people that go down there. There is a boat dock and a boat house and they take boats down there.

Joan Burroughs questioned the clearing of the land and the number of trees that were taken down. She also mentioned that there is wetland on the property but since the property has been cleared the wetlands have dried up. Joan was told that she should contact NYSDEC if it was New York State wetlands or Army Corp of Engineers if it was Federal wetland. Joan thought they only cared about 12 acres or larger. She asked if we cared about wetlands. Joan said that if you look at the National Geological Map it shows wetlands on this property. She was told that Sal is the MS4 person for the Town and if they are designated NYS wetlands or Federal Wetlands we do care about any wetlands. Discussion continued about the wetlands and Joan was directed to contact NYSDEC or Army Corp of Engineers. Joe asked if the road appears to go

through the wetlands. Joan stated that the road is not the issue but she thinks that if a house is built on the property it will be in the wetland area. Joe informed her that this is not something that this Board deals with and it would have to be dealt with by the Building Inspector at the time of issuance of the building permit. Mike stated that from what he knows there are no wetlands on this property.

JOE MADE A MOTION TO HOLD THE PUBLIC HEARING FOR CARFORA, CASE #11-21-17-01, AREA VARIANCE OPEN UNTIL THE FEBRUARY 20, 2018 MEETING, SECONDED BY KATHY. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0.

TRAINING:

Vic stated that for the four (4) hour requirement for training per year there are a lot of Webinars sponsored by the Department of State Legal Services and was wondering if they are applicable to meet this requirement. You do not receive a certificate and there is no tracking but they are lengthy seminars. Kathy thought that they should be. We normally need some sort of documentation for our files. ZBA Clerk will check with the Town Clerk to see how and if we can use this training. Maybe a copy of the announcement for the Webinar along with the topic and date can be used for the file.

VIC MADE A MOTION TO ADJOURN, SECONDED BY JOE. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0. MEETING ADJOURNED AT 8:05 PM.

NEXT ZBA MEETING: FEBRUARY 20, 2018

CUT OFF DATE: FEBRUARY 6, 2018

Respectfully submitted by:

April Oneto
Zoning Board of Appeals Clerk