

ZONING BOARD OF APPEALS
TOWN OF LLOYD
MINUTES
Thursday, September 9, 2021

CALL TO ORDER TIME: 7:00 PM

PLEDGE OF ALLEGIANCE

ANNOUNCEMENTS: GENERAL, NO SMOKING, LOCATION OF FIRE EXITS, ROOM CAPACITY IS 49, PURSUANT TO NYS FIRE SAFETY REGULATIONS. PLEASE TURN OFF ALL CELL PHONES.

Attendance: Board Members: John Litts, Paul Gargiulo, Alan Hartman, Russ Gilmore, Bill Brown, Shawn Zerafa and Mike Guerriero (town board member); Board Staff: Dave Barton, Paul Van Cott, and Sarah Van Nostrand

New Business

ADC Ulster (Falcon Ridge)- 301 Upper North Rd. & 357 Upper North Rd., SBL # 80.3-1-18.110 & 80.3-1-31- Appeal

Applicant is seeking to appeal a determination from the Town's Code Enforcement Officer about the treatment plant and a portion of the road being in an LI zone, that are intended to serve single-family residences.

Andrew (attorney rep. for applicant) said that ADC Ulster owns property on Upper North Rd., the total acreage is about 520-acres and consists of 2 parcels, one parcel is a little over 515 acres and the other is a little over 4.5 acres. The property only has frontage on Upper North Rd., the frontage for all 520 acres is only on Upper North Road without this frontage the property is land locked. The parcels are surrounded by private parcels. The applicant is proposing a 166-lot subdivision which all proposed residential lots are to be in the R-1 zoning district. The frontage for the property is in the LI (light industrial) zone, most of the property is located in the R-1 zone, but all the frontage is located in the LI zone. The proposed subdivision road is mostly in the R-1 zone, there are 2 proposed access points connecting to Upper North Rd. and crossing the LI zone. There is also a proposed private wastewater treatment plant in the LI zone. Both the wastewater treatment plant and the road were identified by the Town's Code Enforcement Officer as not being in compliance with the Town's zoning law. The applicant is able to move the wastewater treatment plant out of the LI and put it in the R-1 zone which would make it zoning compliant as being supportive as a residential use. As for the road it is an accessory to a residential use, therefore the road is not allowed in the LI zone according to the code. If you have an access road crossing 2 zoning districts the general rule is that the use to which that access road leads in this case a residential use must be permitted in the zoning district in which the access road is located. The 520-acre property is landlocked without the frontage on Upper North Rd., that entire frontage has been placed by the town in the LI zone. The issue is that there is no available alternative to get an access road for the subdivision in the R-1 zone except through the

LI zone. There is a law in New York State that an abutting land owner can only be deprived of access to a public highway, if there is a suitable alternative means of access to a public highway. This project site not only doesn't have a suitable, it has no available alternative access to a public road. If the appeal is denied that means ADC Ulster cannot use the land that was purchased back in 2006.

John asked if in 2006 the zoning was the same for that area?

Dave replied that it has been LI since at least 1974.

John asked Paul V., if he could do a little research into if the board even has to grant a variance or not.

Paul V. replied that he would. He also, said that the two things the board should potentially do tonight, one is that the staff can provide some responding analyst to the appeal, the other would be to go ahead and schedule a public hearing.

John asked for a motion to set a public hearing.

Andrew asked if it was possible that the board could do a dual public hearing one for the appeal and one for a variance in case the appeal gets denied?

Paul V. replied that the board could go either way on this, if they just do the appeal hearing it would eliminate the need for the project to be referred to the County. If the board wants to do it all at once that is fine as well.

Andrew said that he would be okay with just a hearing on the appeal, but would like it clear for the record that the use variance would still be pending.

John said that he felt having the appeal public hearing first then have the use variance hearing if needed.

Board agrees.

Paul G. asked about the wastewater treatment plant, if the applicant moves it to the R-1 zone would it be allowed for 166 houses? Wouldn't that be considered commercial?

Andrew replied that the Code Enforcement Officer determined that the treatment was supportive of a residential use and was deemed residential in nature, so if it is deemed residential in use then they would just move it into the R-1 zone.

Paul G. asked if the LI zone ever needed sewer that they would have to have their own package plant?

Dave replied that for sewer in the LI zone if it was independent of the municipal system, it would be serviced in a LI zone. The other option would be that they could connect to the municipal system.

John said, but not connect to the proposed residential system.

Dave replied that is correct.

John asked for a motion to set a public hearing for the appeal only.

Motion made by Bill, 2nd by Paul G.

All in favor motion passed to set a public hearing for October 14th.

Administrative:

Minutes to approve:

June 10, 2021- Motion made by Russ, 2nd by Bill. All in favor, minutes approved.

July 8, 2021- Motion made by Paul G., 2nd by Bill. Russ abstained (absent at that meeting), All in favor, minutes approved.

August 12, 2021- Motion made by Russ, 2nd by Bill. All in favor, minutes approved.

DRAFT