

ZONING BOARD OF APPEALS
TOWN OF LLOYD
Minutes

Thursday, December 12, 2019

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.

Extended Public Hearing:

Law, Ryan, 65 Hawleys Corners Road, SBL# 79.4-1-12.100 in R1 Zone.

Applicant is seeking an area variance to construct a garage with an accessory apartment in the lower front yard. Additionally, and simultaneously, applicant is seeking a special use permit from the Planning Board to allow an accessory apartment in part of the proposed detached garage.

The Board requested a site map from the applicant of the proposed project for the October meeting. The Board suggested the applicant revise the location of the proposed garage to the backyard for the November meeting.

*****Revised 12/10/19 – looking for a side yard set back of 5’ to place accessory structure. Applicant will supply new plans at the December meeting.***

John Litts- Mr. Ryan you were going to get us new maps.

Ryan Law- Yes, one is just an overview, one is the zoomed in copy so you can see a little bit better. The last time we met we trying to move (the building) closer to the house, since then John L. came up to look at the property and I believe Alan stopped tonight? Once John L. got his eyes on the property, we wanted to ask for the least amount distance and decided to get it closer to the property line 5’ away.

John Litts- He moved it further toward his side yard, obviously it not always in his side yard but he moved it farther away from the road which was a major red flag for us.

Paul Gargiulo- When you are sitting on your front porch this building is going to be considerably to the left of your home. And this is the maximum we can get it back, we can’t get it back any further.

John Litts- When driving up Hawleys corners road, you would be hard pressed to know it is in the front yard. I feel for the initial layout would have been right on the road, I commend Ryan for getting it back as far as he can.

Ryan Law- We will make it work, to the best interest of the board.

John Litts- We should go through the balance test and have Rob write up a propose variance.

Rob Stout-What you can do is take a straw poll and see which way the board is going, and discuss a balance test, I can then turn that into a draft resolution that the board reviews before the next meeting before voting on it.

John L.- Lets go through the balance test. (Board goes thru the balance test)

* Discussion of the different balance point tests between the board members. Type 2 SECRA.

Rob Stout- This discussion was lengthy I'll do a draft resolution that does the history and encapsulates the discussion you just had and send it to you before the next meeting, you can do a motion to have me that.

John L.- motion to have Rob Stout do a resolution for next meeting. Second by Russ Gilmore.

New Business:

Fanelli, John, 26 Gabriety Road, SBL# 95.4-2-26.210 in A Zone.

Applicant is seeking an area variance to keep an accessory structure in the front yard.

The chair called up Mr. Fanelli first:

The chair asked for a run-down of what Mr. Fanelli is seeking and for a map of his property.

Mr. Fanelli explained that he bought the property in 2012 with the existing 640 sq. ft house on the property. Mr. Fanelli stated that he was told by the building dept at that time that if he put up a new home the existing structure would be considered an accessory apartment because of the size of the square footage. He shared pictures with the board of the existing house. He then stated that he applied for a building permit and received on to construct the new home in the rear of the property.

John Litts- Discussion of subdivision map and old lot lines shown and erased.

Mr. Fanelli- Shows picture of new house in rear of property. Discusses UCHD approvals since 2014 for septic and well location. Also explained to board that he has a driveway agreement with adjoining property owners. After house was finished, he was told by Dave Barton that he could not get a CO for house because of the accessory structure on the property. He asked board to get the CO for the new house.

John Litts- We don't grant CO's we do variances.

Paul Gargiulo- You have a violation on the property so you can't get the second piece,

Rob Stout- So you are seeking a variance to keep smaller house to stay and if granted you will get the CO for the house.

Paul Gargiulo-Then that will be in the front yard.

John Litts-It also comes to play 2 dwellings on one parcel.

Rob Stout- It could be viewed as two principal structures on the same lot. We can look at other solutions including subdividing out such that you would have to separate parcels.

John Litts- Has the building dept made that determination yet?

Anthony G.- It depends on the definition of what an accessory structure is, Incidental to the primary structure.

John Litts- This does not fall under these criteria.

Anthony G.-NO.

Rob Stout – We may have to have more information of what use you are putting the front house to.

John Fanelli- What that boils down to is what you are going to let me use it for.

Paul Gargiulo- Did you ever know that this house would have to come down when you built this house, were you ever told?

John Fanelli-No only discussion of new address.

Rob Stout- Can we get more information on why old lot line between the two doesn't exist now?

Anthony G.- This use to be 1-acre zoning but new comp plan wanted 5 acres in the Ag zone, but the farmers were not happy with that decision so it was reduced to 2 acres minimum. Joe Valentino had removed the line to make this subdivision meet the new zone standards.

General discussion of the zone and why the changes were made.

Anthony G.- Explaining to Mr. Fanelli how the zoning board gets to its decision by the balance test.

John Fanelli- Has a color map of all 1-acre parcels in the neighborhood,

*General discussion of the area lots and sizes of the properties by Mr. Fanelli and the board.

John Litts- What would you be keeping it for, a rental property, air BB?

John Fanelli- I would like to keep it as a guest cottage.

Rob Stout- From time to time people visiting you?

John Litts- Not as rental unit?

John Fanelli- Let's put it this way if you allow it I'll take it.

Alan Hartman- Why not ask for it?

*Discussion between Rob and John Litts about the accessory structure in the front yard used as a guest house and no accessory use to the main house, and what use is applicant going to do with it.

John Litts- So you are looking to rent it out, generate income?

John Fanelli- Guest house, a guest house! Friends come up from the city to stay.

John Litts- Say we do grant this, could we put a stipulation that it will never be used for income.

Rob Stout- It might be appropriate to elicit comments at the public hearing, so that we can learn about what people think about the area, and what is customary in that area so the board can take that under advisement to before it makes a decision.

John Fanelli- I have about a dozen signatures from my neighbors who are in support of me.

*Discussion of all material being given to the zoning board secretary.

Rob Stout- Do you have a narrative that explains why you meet the criteria.

John Fanelli- Absolutely, I have it right here.

Paul Gargiulo- I am curious on how you got a building permit when you already have a house on the property, and it is zoned for two acres.

Anthony Giangrasso- I knew that question would come up, it was told to me by others (in the Building Dept.) if you do build this house the other house has to come out. But there is nothing I can find that is on record. That's why John is here.

Russ Gilmore- John are you clear on what you asked to do? We have a house on the property that pre-exists and a new one behind that, we are not voting to do anything with that as a zoning board, typically they have a house on the back of the property and want to put a building in front. This is totally reversed.

John Litts- Depending on the use it falls into one of two categories, one is a secondary dwelling on one piece of property that is one determination, and the second an accessory in the front yard of the new house what is in front of here.

So that determination has to be made to see what criteria it would fall under.

Rob Stout- It seems we have the material to set a public hearing.

John Fanelli- Its equity, I've put a lot of time and money into it. It's equity. (The existing house)

Alan Hartman- It's a little fuzzy to me I don't understand why you can't rent it out you are going to be paying taxes on this building and you can't get any return on it.

John Litts- Because it's against our zoning code.

Alan Hartman- That's why he's at the ZBA right?

John Litts- That's what we are determining which criteria he falls under.

Alan Hartman- My point is, why can't he ask that and we could say fine we are going to grant this but you can't rent this out.

*Discussion on the type of use between John L, Alan H and Rob S.

Alan Hartman- My point is at least this way he could recover some of the taxes.

Paul Gargiulo- We need to find out what the public says and I want to do some homework with the building dept. If there was prior knowledge that this building had to go out. If he knew before, then I don't want any building in the front of the house, I think it's non-conforming we have more trouble with buildings in front yards. And I feel that he has a \$300,000.00 – 400,000.00 in the back he's got a \$100,000.00 in the front what do you want more. It's not an asset to the home it's only to make money.

John Fanelli- Discussion on putting up building and the savings he has.

Anthony Giangrasso- John had come into the building dept to see how he could make this work.

Paul Gargiulo- We could give a variance to planning board that we are approving this to put this line back (Old lot line on survey) make these two pieces legal,

as functional property.

Rob Stout-We would have to check and see if any other variance relief is needed beyond lot size that would put him in front of the planning board.

Alan Hartman- That sound like a better deal though.

Paul Gargiulo- It would be two separate lots, one hundred percent legal.

*Discussion on what is the best way to go Area Variance, Use Variance, Sub Division talk among Alan, John L, Rob S and Paul G. Review of the map that john has provided.

Paul Gargiulo- We want to put you on the agenda for next month and have the towns engineer to agree with the layout of the house, then we have two legal houses and two legal properties.

Rob Stout- Which one of the lots owns the driveway?

John Fanelli- Peter Cordovono owns the north side of it and twenty-five feet and Bill and Tim Metzger own twenty-five feet south,

Rob Stout- Do you have a driveway easement?

John Fanelli- I've got it right here, filed with the county money has exchanged hands.

Rob Stout- We table the current application now will check to see if that gives him adequate frontage for the second lot. We table the current application now need to talk to the engineers and the building dept and see if it makes sense of what you are describing and get back to the applicant for the proper applications.

John Litts- We are not going to set a public hearing we are going to table your application we will talk to the town engineer to see if the better route to take is to split the properties.

Paul Gargiulo- It was one acre lots and now its two acres, around the neighborhood its one acre and two acre lots.

Rob Stout- If we run into feasibility issues then we go back to the initial application.

Next meeting date January 9th 2020 7:00 pm.

Minutes to Approve: November 14, 2019