

ZONING BOARD OF APPEALS
TOWN OF LLOYD
MINUTES
Thursday, September 8, 2022

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: Paul Gargiulo, Bill Brown, Russ Gilmore, Shawn Zerafa, Jessica Van Houten (via Zoom) and Mike Guerriero (Town Board); Board Staff: Paul Van Cott (Via Zoom), Anthony Giangrosso, and Sarah Van Nostrand

Continued Public Hearings:

DePuy, Trevor: Area Variance: 4 Eagle Court: SBL #86.4-3-9.1

Applicant Trevor DePuy is the owner of property located at 4 Eagle Court with a SBL of 86.4-3-9.100. The parcel is located on the west side of Falcon Drive and is in the A zoning district. At this time, Mr. DePuy seeks to annex a twenty-five-foot-wide parcel of land from the adjoining Klemm property and create a two-lot subdivision, each with fifty feet of road frontage and twenty-five-foot-wide access parcels. Eagle Court will still only service two individual lots, and the Klemm driveway will exit directly onto Falcon Drive. To accomplish the subdivision, the applicant is seeking an area variance from the Zoning Board of Appeals for relief from Town Code Section 100-14 (4), "Flag Lots-For subdivision of four or fewer lots, only one flag lot shall be permitted."

Paul G. said that the board had asked for a layout of where the electrical lines are.

Patti replied that they were located. This road was originally proposed as a town road, when the utilities were put in, they were placed in a trench along the northerly side of the roadway. An easement will be required for the utilities as they are all running on lands of Klemm, when the project is done, they will all be running on lands of DePuy. Which will be a part of the subdivision review that the Planning Board will do.

Paul G. said that the driveway was supposed to be a road and why couldn't they put the road in now? Then there won't be any need for flag lots.

Patti said that it could be upgraded to rural road specifications at that point the only that would change is that the road would be wider, there would be more impervious surface, there would still be 2 lots back there. There would still be a shared maintenance agreement required for the utilities.

Paul G. said it would be in the right-of-way of the road, correct?

Patti said yes, then it would be up to the town to work with Central Hudson about the ownership of the utilities. She is not sure what would be gained by that, as you will still have 2 lots on a roadway. Her thoughts about doing the two flag lots were that the driveway was in place and was approved. It was improved to the standard that was required for two lots. She felt that this path was the least restrictive and least impactful on the neighborhood and the lots.

Paul G. feels that a road would be better than 2 flag lots off of a shared driveway.

Patti said that it is existing already.

Paul G. said that this the first the board has seen something like this.

Patti said that this situation is unique with the history of the subdivision, last month she supplied the board with copies of the original subdivision. On the map it showed that there was a thru road going from Falcon Drive to Station Road, there was also lot line revisions done to eliminate some of the lots. It is a very unique situation one that is not common in the town. Which is one of the reasons why she chose to seek a variance for these lots. She understands that the board has to look at every avenue.

Paul G. said that Prospero Drive is a town road that only services 3 lots, so that should be looked into for this road as well.

Patti said that the application in front of the board is for a variance, so if the board chooses to deny the variance the applicants do have other options.

Paul G. said that Patti had answered his question about if it was possible, if they do put the road in there would be no need for a variance.

Patti said that because this is such a unique situation the applicants have taking it upon themselves to have 60-foot setbacks not only for the rear lot as is required in the law, but also the front lot. If the road becomes a town road, then that will become a side yard setback and it will be reduced from 60-feet down to 30-feet. She feels that the deterrent to the neighborhood is far less than the financial burden on the applicant to convert this to a town road.

Paul Ackerman (Attorney for Mr. and Mrs. Roosa) said that his clients are opposed to further subdivision of this lot. He doesn't feel that it is a unique situation, he feels that it will create a precedent that will allow other lots in this area and throughout the town to request the same thing. It was only a couple of years ago that this property was consolidated to the existing condition that it is now and that was by the property owner. His client bought their lot after the consolidation and the map showed that it would be one lot, he didn't oppose the flag lot at that time. They did that knowing the zoning law that a double flag lot is not permitted. Now they are being asked to bare a second lot squeezed in behind them. This is clearly a self-created hardship. He has concerns over the shared driveway and it looks as though the driveway is on lands not owned by the rear lot. He is concerned that they are creating a non-conforming lot because the town code states that the driveway has to be built to rural road standards which is not proposed. Two driveways shared there are going to create massive confusion and will impact his client who is closest to the road. It is going to create confusion for public safety, fire trucks, police, ambulance, it will create confusion

for guests who are going to have trouble finding the locations of these two homes and for delivery people. The board should not set a precedent by allowing double flag lots, there is a process for subdivision which may require a town road be built which is the proper avenue to go, but this person consolidated the lots a mere three years ago and is now trying to avoid the subdivision laws of the town by requesting a second flag lot. There's nothing stopping the property owners to the south or other properties in this neighborhood from requesting the same thing and the board would be stuck approving them as there is nothing unique about this.

Paul V. said that the board shouldn't worry too much about setting a precedent, he thinks the board needs to evaluate this variance request on its merit. He thinks that the neighbors have brought up concerns that the board should consider.

Patti said that DePuy is not the applicant who combined the parcels three years ago that was Pleasant View. The parcels are on a private drive called Eagle Court. The reason that was is because when 911 addressing was done they didn't leave space between lands of Roosa and lands of Klemm, there was already confusion if even one house went back there. The applicant took it upon himself to get the private drive named, so he would have safe and adequate access. She doesn't realize that all they have to do is bring the road up to rural road standards in order for it to be subdivided, she would think that the neighbor would prefer to have a more rural driveway than a town road.

Bill asked if the driveway will be shared?

Patti replied that it is a shared driveway now between DePuy and Klemm. The proposal is for Klemm to build his own separate driveway with access onto Falcon Drive which is what his street address is and the shared driveway will still only be used by two lots which will be the applicant and his brother.

Bill said that when you have a shared driveway and it says so in both deeds, you can run into problems down the road. If one parcel is sold and the people don't get along what happens then?

Patti replied that there is a roadway maintenance agreement that gets filed with the County Clerk, could there be problems down the road, whether it is a town road or a private driveway. When it is only servicing two lots and someone doesn't do what they are supposed to do.

Bill said that you wouldn't have that problem if it was a town road because it would be the town's responsibility.

Russ asked how wide is the driveway?

Patti replied that it ranges between 12 and 16-feet wide.

Russ asked would it provide room for two vehicles to pass each other?

Patti replied yes.

Paul Ackerman said that the road is not built to fire code standards.

Patti replied that it is built to fire code standards.

Paul Ackerman asked is it built to fire code standards?

Patti answered it is 15-feet wide, 15-feet high she knows that because her husband is the fire chief. A truck was brought down to try it out.

Paul Ackerman asked what about turnaround?

Patti replied yes.

Paul Ackerman said that it doesn't meet the standards.

Patti replied that they had a fire truck back there.

Paul G. asked Paul V. if he could take the board through the balancing test.

Paul V. suggested that the board makes sure that there are no other comments. Otherwise, the board could close the public hearing. Then the board can either make a decision or do a straw poll.

Paul G. asked for a motion to close the public hearing.

Motion made by Russ, 2nd by Bill.

All ayes motion passed to accept the public hearing.

Balancing Test:

1 Whether there will be a detrimental impact on the neighborhood?

Paul G. said that he feels that they have a way out without seeking a variance. He feels that they should get the subdivision first.

Patti replied that she was referred from the Planning Board on the subdivision.

Paul V. said that the Planning Board sent it to the ZBA to see if a second flag would be okay.

Patti said that the subdivision will move forward with or without a variance. Her goal is to minimize the impact on the neighborhood to the greatest extent possible. The way they are doing that is by not building a town road and increasing the setback from the adjoining land owners.

Russ said that he doesn't see it as a detriment to the neighborhood.

Bill said if they turn the road over to the town, they are going to have to put a cul-de-sac in, which will take property from both lots.

Russ replied that there is already a turnaround.

Shawn said that he feels that making Eagle Court a town road is a more law-abiding process, but will take longer. He doesn't think that it will change the characteristics of the neighborhood.

Paul V. asked if there was consensus in the board on whether there would be a detriment to the neighborhood?

Paul G. said that there will be changes, but not enough to deny it.

2 Whether the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue?

Paul G. said that there is an alternative.

Russ said that the alternative would be a major undertaking and costly making it not feasible for the applicant.

Bill said turn it into a town road, but who is going to pay for it?

Shawn said is turning Eagle Court into a town road feasible? Will that cost fall onto the applicant? He feels if the cost goes up exponentially then it is not feasible.

Paul G. would like the applicant to come with a cost analyst of the hardship to weigh the difference of the board granting the variance to the cost of the applicant being made to build a town road.

3 Is the requested variance substantial?

Russ-yes

Bill-yes

4 Will the variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood?

Paul G. said that there is no impact as originally there was supposed to be 4 lots, now only proposing to have 2.

5 Is the difficulty self-created?

Board agrees it is self-created.

Paul G. said that he would like to see a cost of making the driveway a town road.

Russ asked if the board was allowed to ask for information after the public hearing has been closed?

Paul V. replied that the board can ask for more information, but also should allow any one who opposes this area variance a chance to add more information also. The board can wait until next month to make a decision or do a straw poll and wait until November to make a decision.

Paul G. feels that the board should have the cost analyst to get an answer first before having a resolution drafted.

Shawn asked if Eagle Court is turned into a town road will it open it up for more development

because it is a town road? He is concerned that it could end up with 4-lots again being that it would be on a town road not on a private drive.

Patti replied that it would give lands of Klemm enough road frontage to subdivide their land. The applicant is willing to waive the 45-day time limit for making the decision.

Paul Ackerman asked if the documents could be posted on the website or if he could get them somehow.

Alessi, Elena: Area Variance: 50-52 John White Rd., SBL # 80.3-1-19.200

Applicant is seeking an area variance for relief from Town Code Section 100-14 (A). The flag lot is in the R-1 Zoning district with municipal water.

No public comments

Paul G. asked for a motion to close the public hearing.

Motion made by Russ, 2nd by Bill.

All ayes motion passed to close the public hearing.

Paul V. read the negative declaration resolution.

Motion to accept the negative declaration made by Paul G., 2nd by Russ.

All ayes, motion passed to accept the negative declaration.

Paul V. read the approval resolution.

Patti said that she understands that there is a provision in the code that there will be no further subdivision of a flag lot, but it also says that it conditionally limits any subdivision of the other lot. She said that provision in the resolution could create confusion down the road as the conditions of the lot today might not be the same in the future, and just would like that statement clarified.

Paul V. said he believes the intention of the Zoning Board was to recommend to the Planning Board that no further subdivision of the other lot would occur and not to limit further development.

Patti said that there are 9-acres on that lot and at this time she agrees that it cannot be further subdivided, but if there comes a time that it receives road frontage from another road or if someone wants to build a town road.

Paul V. said that it is up to the board, but he picked that up from the August meeting that some of the board thought that there shouldn't be any further subdivision of either lot. He thinks it should say that no further subdivision should occur as a recommendation to the Planning Board. It is up to the board whether to strike this provision and leave it up to the Planning Board or to keep it in the resolution as a recommendation and Patti can make her case to the Planning Board.

Russ feels that there are two existing houses on a large parcel of land and that the families want to divide the property and what the board is doing is allowing them with this flag lot approach to have

their separate driveways to their separate houses. What the board wanted to protect in doing so is that they don't want any further subdivision of land in the back.

Paul G. feels that if a road does get put in, they could push for further subdivision in the future. He wants to avoid sticking another parcel in that doesn't have enough frontage.

Patti said that she just wants to be clear as she knows that it will be discussed at the Planning Board meeting.

Paul G. said that the resolution would be amended to state that no more subdivision allowed due to the fact that there is no more road frontage.

Paul G. asked for a motion to accept the resolution as amended.
Motion made by Russ, 2nd by Shawn.

Roll Call Vote:

Jessica-aye

Russ-aye

Shawn-aye

Paul G.-aye

Bill-aye

Motion passed to accept the resolution as amended.

Administrative:

Minutes to approve:

August 11, 2022

Motion made by Russ, 2nd by Shawn. All ayes motion passed to accept the minutes.