

**ZONING BOARD OF APPEALS**  
**TOWN OF LLOYD**  
**MINUTES**  
**Thursday, December 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.**

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**Attendance:** Board Members: John Litts, Paul Gargiulo, Russ Gilmore, Shawn Zerafa, Jessica Van Houten, Mike Guerriero (Town Board); Board Staff: Paul Van Cott (via Zoom), Anthony Giangrosso, and Sarah Van Nostrand

**Absent:** Board Members: Bill Brown

**Public Hearings:**

**Nicholas Corday Farms LLC: Area Variance: 67 South Street: SBL # 87.3-1-16.112**

Applicant is seeking an area variance to place a farm outbuilding in the front yard. The outbuilding will be setback 1064-feet from the road.

Board looked at new material submitted.

John said that this is a unique situation because it is so far off the road. The board cannot think of it as a farm building, it needs to be considered as just an outbuilding.

Paul G. asked if they could declare the house facing west?

John asked Anthony if he could look up the definition of front yard in the code book?

Anthony found the definition.

John said the definition in the code is: “yard, front- a yard extending across the entire width of the lot and lying between the front lot line and the nearest line of the principal building”. The front lot line is the road and the principal building is their house. The board needs reasons why it has to be here and not somewhere else. The footprint of the building, is it that much of a deterrent to lose that area for planting? The building is 100-feet by 50-feet.

Chris (applicant) said that also the perimeter of the building could be used as well, not just the

building. There is a considerable amount of space to get to the building, and to get equipment in and out of the building. They would be losing more prime soil if they move the building.

Christine (applicant) they would need to pave to the building if it was moved.

Chris said that the previous owner declared the spot for the shed.

John replied that the previous owner said it was rocky, not really good for planting.

Chris said that everywhere has great soil. It could go in the back, but it would be taking that area away.

Christine said that they want to use the building to produce honey and that location makes the most sense vs continuing to build all these roads.

Chris said if it was rocky in the back, he would put it back there. To put it back there, would be taking away what they hope to accomplish with the property.

Paul V. said that in relation to alternatives that their objective of a farm use would be relevant to that consideration. As that points them into a certain location of where to put the building it is relevant.

John said that it would be for any use not just a farm use. They have an alternative use for the property that they are not putting the building on.

Paul V. said that's correct, but their specific use is farming which would bring into relevance the better soil in terms of placement of the building on the property.

John asked for a motion to open the public hearing.

Motion made by Russ, 2<sup>nd</sup> by Paul G.

All in favor, motion passed to open the public hearing.

Dave (Neighbor) said that the board is going about this the wrong way as this property might be a future farm. They want to farm this land; they don't want to restrict this building to storage or anything else. If one day they clear the land and start to farm the land, the building will be used for farm uses, so it shouldn't be an industrial building. When he built a building on another farm it was 10-feet off the road and near a school. This building is 1,000-feet off the road and the house was built to look toward the mountain and not the road. This property has a 14-foot road going back to the farm and it can never be developed. They are under the height, far off the road and the only thing he would be concerned about is the color of the building.

John said that right now they are not an agricultural operation, they will be. The board cannot treat them as if they were as, it prevents anyone from saying they are farm and placing a building wherever they want. The board has to make sure that they don't allow people to do that. By doing that they have to go through all of these steps that they are doing now. The board will take into consideration how far off the road it will and they did do the balloon test to show it won't be seen. The board doesn't just say no or yes, they have to go through the process and justify their decision.

Dave said that he was just bring up points to show that this project isn't hurting anything.

Paul G. said that environmentally they are not hurting the area.

John said to Dave that if he sticks around the board will go through the balancing where all those things come into play. He mentioned that this kind of building isn't what they are trying to avoid by a building in the front yard.

\*Technical issues prevented a person on Zoom from speaking\*

John said that they are not going to close the public hearing this month in case the one Zoom has further input they would be able to do that. Typically, the board tries to minimize the impact, by moving the shed to the side-yard or back-yard. He thinks the applicant in this instance has demonstrated that it would not be feasible because you are trying to utilize the land to the maximum of its capacity. By doing that if you put in the back then it would be a detriment to the applicant. Where they want to place the building its rocky and won't be good for anything except apple trees.

Paul V. went through the balancing test with the board.

1. Undesirable change in neighborhood character or to nearby properties?

John said given the proximity to the other properties and the nearby road and the topography of the land he believes that it will have no impact.

Russ mentioned that the balloon test showed that it wouldn't be visible.

John replied there would be zero impact from South St.

2. Whether benefit can be achieved by other means feasible to applicant?

John said that they could put the building in the back of their house, but to a detriment to the use of the land which is planting. He thinks that's outweighed, so it would be yes, but it would be minimal.

Board agrees.

Paul V. said there is a feasible alternative that would not require a variance, given their project objectives.

Board said no.

3. Whether the request for relief is substantial?

Paul V. said here the board is looking at the standard which is having an accessory structure in the front yard.

John said that given the topography of the land and the proximity to the nearest road and nearest property he would say no.

Paul V. said there is case law that there won't be any environmental impacts even though it is a 100 percent variance from the standard, the board can still reasonably conclude that it is not substantial based upon what John said.

Board agrees.

4. Whether the request will have adverse physical or environmental effects?

John said for reasons previously stated he believes it to be no.

5. Whether alleged difficulty is self-created?

Board agrees it is self-created.

Paul V. said the question for the board is balancing the applicant's goal vs the impact of allowing the variance, is the board comfortable then considering these factors granting the requested area variance?

John said yes, but note that this is a very unique situation with the distance from the road, the topography makes it unique and not a normal situation.

Straw Poll:

John-aye

Russ-aye

John-aye

Paul G.- aye

Shawn-aye

Jessica-aye

John said that the board is comfortable with granting the variance and asked Paul V to draft a resolution.

**Administrative:**

**Minutes to approve:**

November 10, 2022

John requested a change in the minutes.

He asked for a motion to approve the minutes as amended.

Motion made by Russ, 2<sup>nd</sup> by Paul G.

All ayes motion passed to accept the minutes as amended.