

ZONING BOARD OF APPEALS
TOWN OF LLOYD
MINUTES
Thursday, April 13, 2023

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, and Russ Gilmore; Board Staff: Anthony Giangrasso, Paul Van Cott (via Zoom) and Sarah Van Nostrand.

Absent: Board Members: John Litts, Shawn Zerafa, and Jessica Van Houten.

New Business

Relyea, Susan: Area Variance: 1 Maple Ave & Brinkerhoff Ave, SBL #88.17-10-3.200 & 88.17-10-4

Applicant is seeking area variances for proposed lot #2 for rear yard setback, lot density and lot area.

Patti (applicant's agent) said that are proposing a lot line adjustment between two existing lots. Proposed lot #1 is currently 0.35-acres and is improved with a single-family dwelling, a garage, a pool and a pool house. The lot line to be removed is the light blue line on the plans, which right now is going through the garage and deck. They are proposing to remove that lot line and add the garage, pool and pool house to the existing single-family residence that have always used those structures. In order to do that because of the existing separating distance between the pool house and the garage on lot #2, they are going to require a rear yard setback for lot #2 and a side yard setback for lot #1. The pool house will only be 8.6-feet from the lot line and it needs to be 15. The garage will be at its closest point 9.5-feet which requires a variance of 20.5-feet because 30-feet is required. Brinkerhoff Ave is lower and then behind the fence where they have the proposed new lot line is the top of a steep embankment, so physically it appears already and has been utilized for many years that the garage, pool and pool house all are utilized for and been a part of lot #1 because they were under common ownership, they never really cared where the lot lines were. The applicant is looking to sell one of the properties, lot #2 and in order to do so they want to make sure they get the pool, pool house and all of the garage onto lot #1. Basically they have a lot with a few pre-existing non-conformities, they are trying to clean it up, so that on each lot they will own what they have been using nothing new is proposed there will be no change in the character of the neighborhood because they are imaginary lot lines on a piece of paper and on the ground the fencing already separates the two lots and that is what they are proposing to be the new lot lines.

Russ asked is the intent to break out the Ric-Etta's office away from the rest?

Patti replied yes.

Russ said that it appears the new lot line stops at 3 Maple Ave and cuts straight across to the right?

Patti showed on the map where the lots are.

Russ said that he is confused by the blue line that goes through 3?

Patti said that it is a separate lot.

Russ said that is the only access to the other house.

Patti replied that is correct, it is a deeded right-of-way since the 40s.

Paul G. said that he would like to set a public hearing for next month.

Paul V. said that makes sense, basically what the board has here is acknowledging the existing use and drawing the property lines around it.

Russ said that he lives 2 properties away from this on Maple Ave. does that make any conflict?

Paul V. said that it is entirely up to him, if he is comfortable and can be objective then he thinks it is entirely appropriate for him to stay involved, but if you feel conflicted.

Russ said that he doesn't feel conflicted, he just wanted to make sure that as public record that he is a neighbor two properties away.

Paul V. said that it is entirely appropriate for him to disclose his proximity to the property.

Paul G. asked for a motion to set the public hearing for next month.

Motion made by Russ, 2nd by Bill.

All ayes, motion passed to set the public hearing for May 11.

Paul V. mentioned that this would be an unlisted action for SEQRA because not only does it involve setback variances, but also a couple of other variances that kind of push into the unlisted action.

Patti said that she submitted one EAF to the Planning Board and listed the Zoning Board as another permit that was required. Are they going to do two independent SEQRA determinations?

Paul V. said that the Planning Board would usually become the SEQRA agency, but the ZBA needs to make a determination first. As an unlisted action they can both proceed on their own paths, they don't have to do a coordinated review, so this board could make its own SEQRA determination based on the unlisted action status and then the Planning Board could do the same.

Patti said the one SEQRA document that was submitted is satisfactory for review by both the boards.

Paul V. said he thinks that's fine.

Russ said that on the proposed lot line he doesn't think they need a topography map, but it is up on a hill. It's not like they can move any of these structures further back or further forward as there is a lot of hill.

Paul V. said that from Patti's explanation and looking at the maps it just makes sense. The Planning Board will take care of the subdivision side of things. As long as the board is comfortable with the area variances that basically happen because of the lot line adjustment. If you look at the new small lot that will be create you would end up with a minor rear yard setback variance which is not entirely minor, but the reality is that structure is as the board has described it, is up against the bank. On the other side you have the structure at the bottom right up against the new property line, so it seems like a natural situation. From an area variance standpoint, it seems that it will probably meet the standards without too much adjustment because the board is dealing with existing topography and have lot line and building constraints that are natural.

Walton, Gia: Area Variance: 1 & 25 Picnic Woods Rd, SBL #94.2-2-18.130 & 94.2-2-18.141

Applicant is seeking an area variance for lot area. Proposed lot #2 is a new buildable flag lot 2.04-acres in size. The flagpole is 0.16-acres in size which may not be counted towards lot density, therefore relief of 0.12-acres is needed.

Patti (applicant's agent) said that they are proposing a two-lot subdivision, the front lot will be 2.01-acres and the back lot will be 2.04-acres, so on face both of the lots are conforming. However, there is a provision of the code that the driveway flag pole portion of the lot may not be counted toward the acreage. That calculates out to 0.16-acres and they are asking for a variance to allow that slight under area.

Paul V. said his only question is other than the acreage issue this meets all the other flag lot standards?

Anthony replied yes.

Paul G. asked which lot are you getting the acreage from?

Patti replied taking some from lot #3. Basically they are taking lot 1 and lot 2 which are one parcel and they are taking a little bit from lot 3 to get the separation distance for the septic on the back lot, which also brings it up to the 2.04-acres.

Paul G. asked about lot 1.

Patti replied that it is 2.01-acres and conforming in all aspects. They also had no problem meeting the 35-foot setback for the proposed new house or the 60-foot setback which is an increased setback

for a flag lot. They had no issue placing the house, so it wasn't in direct line in the rear of the house that is on the front lot because that is also another requirement. They were able to meet every criteria of a flag lot except for the counting of the driveway in the area.

Paul V. said that the board is just looking at the one lot, which is the flag lot and the fact that it is deficient because of what the zoning code requires in terms of the calculation of the driveway area and not allowing that to be included in the overall area for the lot. Otherwise you would be over 2-acres, but you are a little bit short because it is a flag lot and that driveway doesn't count.

Paul G. said that he feels that they should set a public hearing for next month to hear from the public and have a full board. He also feels that they cannot steal any more property from the other parcels and if they could it still would be short.

Paul G. asked for a motion to set a public hearing for next month.

Motion made by Russ, 2nd by Bill.

All ayes, motion passed to set a public hearing for May 11.

Hudson Troy Group LLC: Use Variance: 1 Grand St, SBL #88.69-5-17

Applicant is seeking a use variance to allow one short-term rental in a 3-family home.

Philip Potenza (Applicant) said that he brought a piece of property about 3 years ago and it is a three unit dwelling. He had a rough start as some people didn't want to pay the rent and sustained a loss when he was unable to find a 3rd tenant to rent the apartment. That is when he tried out Airbnb for the last half of last year. For the first two years the cost to maintain the building exceeded the rent that was collected. In 2022 they didn't receive anything for the first six months after the lease was broken by the tenant and the apartment was left needing refurbishing. At that time Airbnb's became popular in Highland, so they went to try it out and looking for a steady source of income. Since posting it on Airbnb he has been earning above the market average in the area. It has been consistent source of income. Based on the Airbnb income they were able to lower the rent for one of the tenants for the other tenant they did not raise their rent. With the rising costs with the Airbnb income they are in the black and can invest back in the building. Before they even decided to rent the 3rd unit, they approached their tenants and asked them if they were comfortable with it. They would like to maintain the STR use in a 3-unit dwelling.

Russ asked if you are standing on Grand St and you are looking at the building, there are doors on either end and one in the middle, which one is the STR.

Philip said the one all the way to left with the private driveway, no parking on the street. It has a private driveway, private entrance, has a fence to separate it from the house next door.

Paul G. said that he understands that a 3-family house cannot have an STR in it.

Bill said that it states in the letter that you have had visiting nurses and parents visiting students in colleges, so you have been renting that as an STR to begin with, before you applied for the application.

Philip said that they had been renting before the STR law came into effect.

Paul G. asked if he can bring documentation that he had been renting the property out as an STR prior to October?

Philip said that he started renting the property in June of last year. He showed the board his rental list.

Paul G. said that he proved that he was renting as a short-term rental, prior to the law.

Paul V. asked if he had registered with Ulster County.

Philip said that it was all submitted to Sarah.

Paul V. asked and that was as of the 1st of the year, that you were registered?

Philip said that he wasn't even aware of the law.

Paul G. said that he has proof here that he started the Airbnb back in July of last year, prior to October when the law went into effect.

Paul V. said that the things the building department are looking at in addition to the fact that they were operating before the 1st of the year is to make sure they were legally operating before the 1st of the year and that includes being a part of the county registration of short-term rental. This is a use variance and the board is in a hard place because the short-term rental regulations only allow for short-term rentals to occur in single or two family dwellings and this multi-family dwelling. That puts the applicant in the position to having to seek a use variance which is a heavy burden. His recommendation is if the board is willing to set a public hearing for him. The staff can do some more research and work with the applicant and bring it back to the board.

Anthony said that he is seeking a use variance, then they board needs to do what a use variance asks for, the 5 steps that the board needs to do.

Paul G. said that they have to look at the character of the neighborhood, health, welfare and safety.

Philip said that he only got the certificate last month when the department reached out to him as he didn't know he needed it.

Russ asked if in the application for the STR did it ask for anything about being there in July with an Airbnb.

Philip said no.

Paul V. said that they can work with the applicant who can supply a supplemental submission to the board. A use variance is a very tough standard, but there were some interesting arguments that he thought that the applicant made, that may resonate with the board. In terms of how to manage the 3-family dwelling, how to keep prices down for two of the apartments and make enough money to be able to pay the property taxes.

Bill asked about fire safety has that been taken care of?

Philip said that because it is a 3-family he has regular inspections and he guesses that another inspection is required for the STR.

Paul G. asked for a motion to set a public hearing for next month.

Motion made by Paul G, 2nd by Russ.

All ayes, motion passed to set a public hearing for May 11.

Administrative:

Minutes to approve:

March 9, 2023

Paul G. asked for a motion to approve the minutes.

All ayes, motion passed to approve the minutes.