

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

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**Attendance:** Board Members: John Litts (7:25pm), Paul Gargiulo, Bill Brown, Russ Gilmore. Mike Guerriero (Town Board); Board Staff: Anthony Giangrasso, Paul Van Cott and Sarah Van Nostrand

**Absent:** Board Members: Shawn Zerafa and Jessica Van Houten

**New Business**

**My Hudson Homes LLC: Area Variance: 16-18 Washington Ave, SBL #88.69-4-7**

Applicant is seeking an area variance to have a 4<sup>th</sup> unit on a 1.04-acre lot in the R ¼ Zone, where only 1-acre is buildable.

Samantha (Applicant) said it is a two-family house and then a detached garage, the third apartment is above the garage, and they would like to convert the garage to a 4<sup>th</sup> unit. There is 1.04-acres, but just under an acre is buildable because of the Twaalfskill Creek in the back and they were told that because not 1-acre is not buildable, they need a variance to be able to add the 4<sup>th</sup> unit.

Paul G. asked if it was all flat next to the garage.

Samantha said that is their next-door neighbor. They just have the house and garage, no other structures.

Russ asked if the blue house was theirs.

Samantha said yes.

Russ said if he remembers correct the garage is not attached, but detached.

Samantha said yes it is detached.

Paul said they have enough land, but don't have enough useable land for the density calculation.

Samantha said that she feels the community could use more units, she would love to be able to add one, there are others that they could do with the garage, but she feels like this would be a great use for it. It won't change the footprint on the property at all, there is plenty of parking, it has municipal water & sewer.

Paul G. asked if she has a site plan with her.

Samantha showed the board the survey.

Russ asked what about parking, if you make the garage an apartment you would probably need 2 spaces for it, is there enough space.

Samantha said yes, there is space for 8 cars and there are only 3 cars.

Russ said that he saw that there was space for parking but wasn't sure how much there was.

Samantha said that there should be enough room for 8 cars, but there are only 3 cars based on her current tenants and they are not planning on going anywhere.

Paul V. asked are these long-term rentals?

Samantha said yes.

Russ asked is it currently a garage.

Samantha said that yes, it is currently a garage. It was being rented out to someone previously for storage.

Paul G. asked for a motion to schedule a public hearing for August 10.

Motion 2<sup>nd</sup> by Bill.

All ayes, motion passed to schedule the public hearing.

Paul V. asked if the board wanted a draft resolution prepared for the next meeting.

Board agrees to have a resolution drafted for next meeting.

### **Smith, Thomas & Virginia: Use Variance: 241 Upper North Rd, SBL #87.8-1-8**

Applicant is seeking a Use Variance to have a residential building in the LI Zone.

Paul G. asked if the property was on the left-hand side of North Rd.

Thomas (applicant) said that it is on the left-hand side of North Rd, there is a shared driveway. The other property has a double wide in the back and there was a single wide on the property that he bought earlier this year and that he removed off the property.

Russ asked is the structure that the board sees, is that there now.

Thomas said no he removed that out of there, it was a single wide.

Paul G. said that for a use variance you need to prove hardship, that you cannot do anything else with the property. Financial hardship is the biggest claim that can be gone for.

Thomas asked what is that.

Paul G. said to grant the variance there is a tough road to travel to change it from the LI Zone to a residential zone, the only way to that is with a use variance. You have to prove it beyond a doubt that you cannot do anything else with the property except putting a residence on it.

Paul V. said basically your residential use that you want is not allowed in the Light Industrial District, so you have to prove that you cannot realize a reasonable return on the property. That there is no other way that you can use that property and get a reasonable economic return out of it. That has to be based on financial evidence. Basically, proof that you tried to market the property for uses that are allowed in the Light Industrial Zone.

Thomas said that he doesn't want to sell the property, he bought it for this purpose.

Paul V. or that you cannot use it for Light Industrial purposes.

Anthony said that he was called by the owners as they wanted to meet and take a look at the property because they wanted to replace the existing mobile home that was there. They were scheduled to go out because there was a discrepancy in the size of the trailer. They had 14 X 70 on one on plot and the assessor had it as 10 X 70. They wanted to increase the size of the trailer, which can be done, but not more than a 50% increase. He wanted to look at it and measure, so he knew what they were dealing with. He set up an appointment, the appointment got cancelled, but he was out that way and decided to take a drive by. He gets to the property and there is no trailer. He couldn't verify what the size was, so he could know how much more it could be expanded. They should have gotten a demo permit and he could have know what the size was and you can do what you want with the new building. He has no idea how long the trailer was gone, so he had to send them to the board for the variance.

Thomas said that he brought the property earlier this spring. He didn't know he needed a demo permit because everything he looked into stated that as long as he removed it and wasn't demolishing it, everything he saw say you are allowed to remove a mobile home. He didn't know that it would effect what he was putting on there. There was a place on there and he just bought it, and he bought it with the trailer on it. He basically just wants to put a new home on that property.

Paul G. asked just another trailer?

Thomas said yes, a double wide, its not no crazy size. It's a 1,250 square foot double wide. There was a trailer on the property, but everything he saw said he didn't need a demo permit if he was just removing it.

Paul G. asked when you brought the property did you understand that it was a Light Industrial Property.

Thomas said he didn't know that when he bought the property. He had no clue it was Light Industrial until Anthony told his wife.

Russ asked how wide is the driveway.

Thomas said it is a shared driveway right now, so there is no driveway there, he cleared it out as it was just overgrown with grass.

Russ asked what is the width of what the board calls the "flag pole".

Thomas said it's probably about 10-feet wide.

Russ asked will that meet fire code.

Anthony said he thinks it is 25-feet as you need that much road frontage to have a buildable lot.

Russ said so it doesn't meet that criteria either.

Anthony said that the driveway is wide enough.

Paul V. said that the challenge is do you meet the requirements for a use variance. One of the things that he suggests is missing from the application is any of the information needed is to show that he cannot obtain a financial return on it that is reasonable in some other way. Either by marketing it and selling it or by using it yourself for a use that is allowed in the Light Industrial Zone.

Thomas said he has no use for it but to put the place up on it.

Paul G. said buyer beware, you have to do your research before trying to get something that is unavailable. The person you bought the trailer from was anyone living in that place.

Thomas said no.

Virginia (applicant) said that before they bought the place she did come to the town and they said that she could just replace it. They were told that they could replace the trailer up to 50% which was fine. It was never said that no once you take this off then you are screwed because its in the LI Zone, it was never stated as that.

Bill said the other thing is it was a single wide trailer.

Thomas said yes.

Bill said was that there before the town changed the zoning.

Thomas said that it was there since the 70's.

Paul G. said you need to go to the tax assessor and get the size of the trailer and bring it back to the board.

Virginia said everything was supplied to the board.

Pictures and the document were passed around to the board.

Paul V. said he knows it's not what they want, but you can look at the uses that are on the Light Industrial use table and see if there is anything that might fit there.

Thomas asked what he means.

Paul V. said he has the use table up and there is a possibility of a service business.

Thomas said he is not looking to do something like that.

Paul V. said to see whether there is something that fits. He doesn't know what his business is.

Thomas said he does paving. That piece of property for that has no use for him for that. He has a lot of big trucks, equipment, and trailers. He cannot even bring his truck and trailer down in there, he had to park on the road when he was clearing out the back.

Paul V. said it wouldn't serve as an office or anything like that.

Thomas said no.

Bill asked when did they change that to Light Industrial.

Paul G. said back in the 90's, but it could have been industrial prior to the 90's. In the 90's the town made 1,000-feet from 9W on both sides Light Industrial.

Thomas said it is a shared driveway and the other property has a double wide that is a 2004 or 2005.

Virginia said there are houses and apartments, so its not like its just for businesses. She mentioned that she asked if they could do a small complex for apartments and she was told no.

Thomas said that's why before they purchased it they could put a double wide up there.

Paul V. said that Anthony should provide some advice to the applicant in terms of what they need in regards to economic information.

Paul G. said that he recommends that they document everything, get a site plan, see how wide the driveway is. You explained that you couldn't even bring a truck up there for Light Industrial use. Then you have to prove beyond doubt that there was a trailer there prior to you taking the other one out. That trailer gave you the right to replace it, but only when you had a building permit a demolishing permit.

Thomas said he has the proof with the pictures, everything there is pretty much what you are asking

for. Aren't you allowed to remove a mobile home as long as you are removing it and not demolishing it.

Paul G. said if you did it in procedure.

John asked when did you purchase the property.

Thomas said it was like February, March time.

John asked of this year.

Thomas said yes.

John asked you removed it between that time and now?

Thomas said yes.

John said you have 365-days to replace for a pre-existing non-conforming.

Anthony said there are two sections of the code the one that applies is 100-17 (5). 100-17 (4) is the one where non-conforming use, for example if you have a building sitting on a piece of property like a repair shop in a residential zone if that shop is not used for a year you would lose the right to use it as far as that use. For the one in front of the board is if you remove for any reason that non-conforming structure and you don't follow the procedure it reverts back to what the zoning is at that time. The way this could have been prevented was to get a demo permit.

Virginia said that they could remove it without a demo permit.

Thomas said a demo permit would be to tear it down.

Anthony said this is how we track it, the way the law is written they have a procedure that needs to be followed. When you brought the property, if you came in and said you have a single wide trailer and want to replace it, then you would need a demo permit. Take it down now he has documentation, you then go for a building permit, you wanted to increase the size of it you are allowed to go 50% of the original footprint of that non-conforming building which in this case would be about 1,035 square feet which will be the max you could go as this is a non-conforming building for this property. If you want to put a double wide on it, that's going to be a problem because he cannot let them do it because of the zoning.

Thomas said the one that was on there was a 70 X 14, so if he could go 50% more then how is he only allowed 1,035 square feet.

Anthony said here is the other issue, when he went to the assessor, their records show a 10 X 70, he needs to go by what the assessor has it assessed as.

Thomas said even if he got a double wide that was say 1,050 square feet, they couldn't put that.

Anthony said if it meets the zone and setbacks.

Virginia said that they spoke with the trailer company that they didn't even make a 70 X 10 that year, it had to be either a 70 X 12 or a 70 X 14. Supposedly the property hasn't been assessed since 1970.

John said that falls right back into what Anthony said follow procedure.

Thomas said how come when they called about this in the Fall before they brought the property they called and asked if they could put that there, nothing was said that you have to get a building permit.

Anthony said when Virginia called him, he set up an appointment with her to go out to look at the property.

Thomas said they are talking about when they called back in November.

Anthony said that he wanted to go out there and measure the actual size, so he could calculate what the maximum amount of square footage they could have. She called back and cancelled.

Virginia said that the office called back to say that he had cancelled as something came up and that he was unable to make it.

Thomas said either way they called about it back in November, when they first started the process of buying the property. When they called and asked if they could put this here, if they buy this property they were told yes. No one said yes you can do this, but you need to get a demo permit. He knew he needed a building permit but didn't know he needed a demo permit to remove the trailer.

John said did you call and ask before you did it. He knows that you called and asked if you could replace it, but before you went to remove it did you call and say hey do I need a demo permit.

Thomas said no, he didn't demo it he removed it.

Virginia said they asked the trailer place and they said they do this all the time you just have to remove it.

Thomas said that he didn't demo it, he actually removed the trailer. As far as he knew he was allowed to remove it as long as he didn't demo it.

Virginia said they told us that they could remove it as long as it was replaced within a years' time.

John said a use variance is very hard to get. An area variance you have more leeway, a use variance is very difficult to get, not because of the board, it's because of the restrictions placed on this board by the State of New York. There is a set of criteria they need to follow to change the use.

Thomas asked how much more does he need, he has pretty much gave everything.

Paul V. said he has provided photos of the trailer and some assessment information, but the board hasn't seen that.

John asked when you purchased the property did the purchase agreement have a square footage.

Virginia said yes.

John said it had the square footage that you purchased it with, you can provide the board with that.

Thomas said won't that also prove that there was a place there.

John said the board has to have as much information as possible, to help you to be where you need to be.

Thomas asked what more does he need besides what has been provided.

Paul G. asked if he paid the trailer to remove the trailer.

Thomas said no, he removed it himself.

John said in the information that was provided to the board, the square footage was 700 in the report that you provided.

Virginia said that document is what the assessor provided.

John said the maximum allowed would be 1,050 square feet. If they can follow that part of code, as it was removed.

Anthony said that is the issue.

Paul V. said that the board can tweak it, if they grant the use variance.

John said that they have to get there first.

John asked for a motion to schedule a public hearing.

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

All ayes, motion passed to schedule a public hearing.

## **Public Hearings**

### **Rozzi, Thomas: Area Variance: 3 Orchard Ln, SBL #87.10-2-6.210**

Applicant is seeking an area variance for a garage in the front yard.

Paul V. said that the minutes are not done yet, but it was recalled that the issue they flagged is the same that the board had flagged is to reduce the visibility from the neighboring properties and they suggested the consideration of a fence or some infill of vegetation.

John asked if the pines were on his property or are they on your neighbors property.



Thomas (Applicant) said they are his.

John said that he can see the board requiring an aesthetic barrier, maybe some shrubbery. He looked at it, it is fairly unique because it is a flag lot, so visibility from the road.

Thomas said that the neighbors in front have planted a bunch of trees as well and their septic system is a raised system right there, so it kind of shields them and all around they planted trees.

John said that they would have to implement on him to plant trees, in case your neighbor clearcuts his trees, its not their responsibility to shield themselves from your shed, its your responsibility.

Thomas said at the last meeting the board wanted him to explore the possibility of him placing it in the backyard. He had his engineer look at it and his back is basically his septic system and reserve area.

John asked if he had a report from him.

Thomas said no.

John said that he thinks the board also asked for topo maps.

Thomas said he didn't go that far because of the septic and reserve he cannot put it in the back yard.

John said on the side yard where it says the addition, why cannot it go on the side of the house.

Thomas said there is no room there.

John said he doesn't have a measurement from the addition to the side yard.

Thomas said it is about 35-feet. That stone wall is a 4-foot retaining wall that comes off that garage.

John said what about the area between the outdoor court and the pool, where it says you have 67.3-feet between the property line and the edge of the building.

Thomas said that isn't accessible, his pool fence comes off the house.

John said what you are telling us is great, but show us why it cannot go here, they need a topo. He knows that last time he mentioned that there is a 5% grade, the board needs to know that. The board needs to justify allowing it to be in the front yard. Like when you say there is a fence around the pool, it doesn't show it on the map. The board needs to see that to say yes, it is not feasible to put it on the side yard. The board tries to get most of the building in the side yard, they don't have a problem doing that, but they need to justify what they do. If you can take pictures, do a topo which doesn't have to be perfect, just a lot level anything to get from your driveway to the wall and if it comes from the wall and goes up to your property line, like its not flat, show the board that because that it is feasible to it there because there would be a shear face to your property line. The board is clear that you showed it cannot be placed in the backyard, now you need to show the side yard why it cannot be put anywhere. Does it have to be as close to the property line as it is or can it be pull

toward your house a little bit more. He doesn't have an issue with it being close to the property line because it is a flag lot, so its not like it is visible from the road.

Thomas said the only thing he sees when he looks out his front door is his neighbor's shed.

John said as much as you can possibly prove to the board that he cannot go anywhere else. Right now, looking at the map he doesn't see a reason why it cannot go on the side of the house, but if you are telling him there is a fence there, the topo isn't right, if it's wet put it on the map.

Thomas said if it went on the right side of the house he would need a variance for it anyways, and he would have no accessibility to his back yard.

John said but then again it would be self-created. If you want to cut your access off to your backyard that would be a self-created hardship.

Thomas said even if it could go on the side he would still need a variance.

John said the board's job is to grant the least variance possible. If it was a side yard setback of 3-feet, it's very easy to do.

Board recapped what was needed.

John mentioned that he would also like to see a landscaping plan.

John asked for a motion to open the public hearing.

Motion made by Bill, and 2<sup>nd</sup> by Russ.

All ayes, motion passed to open the public hearing.

Sarah mentioned that the board had public comment in their packets.

John read the public comment. He said that this board deals with the structure of the building not the use. You know it cannot be used for commercial. The use is not the board, unless it is a use variance.

### **Peppino's Foods: Commercial Area Variance: 304 Station Rd, SBL #86.1-22.100**

Applicant is seeking an area variance for 5% building coverage and 27% for lot coverage.

John said that the board previously asked about adding some of the other parcel he owns behind and along side with this one.

Patti said yes, but Anthony made a determination that since the board had already scheduled the public hearing that they should come and appear before the board and let you know what the decision was. Based on the board's recommendation, they are taking a 1.38-acre parcel and adding it to this lot. She submitted an email that they are making an application for a lot line revision to add 1.59-acres to their existing parcel, currently the lot coverage on the parcel is 39.25% in the A Zoning District that has a max of 10%, the proposed addition of 1,360 square feet of gravel parking

area would increase the coverage to 39.9%, requiring an area variance to increase the pre-existing lot coverage. The lot line revision will reduce the coverage to 29.2% before the gravel and 29.7% after construction. As the lot line revision will take the pre-existing non-conformity and reduce it by 10%, she believes that an area variance will not be required.

John asked if they required a variance still, with the lot line revision.

Anthony said he not sure about building coverage.

Paul G. said it is an existing concrete pad.

John said as far as the building coverage it's actual structural coverage, in the definitions the pad that is there is a structure, and it is pre-existing and is already included in the coverage calculations.

Patti said that the building department already made that determination, and they are only here for the addition of the gravel.

Paul G. said he is adding 6 new employees.

Patti said that he is not adding any new employees, the building will be for storage only. He currently owns the cooler on North Rd. that he is using for storage and it's a lot of truck traffic, it's back and forth, so he's consolidating by adding this new building. He is consolidating this into one location, which will create less truck traffic in and out, it will remove his business from the North Road property.

John said by doing the lot line you are rescinding your application for the variance.

Patti said she is looking for the determination from the Zoning Board that you agree that its no longer needed and is seeking to withdraw it, but not if it's the Zoning Board's opinion that she still needs it.

Paul V. said that determination would come from the building department as a recommendation to the Zoning Board.

Anthony said that they made the non-conforming lot, less non-conforming, its all good.

Patti asked does she need to withdraw or is the building department's determination that she doesn't need to be here.

Paul V. said it would need to come from Anthony.

John said that it needs to come from the building department.

John asked if the public could speak if they could still have the public hearing.

Paul V. said you didn't open the public hearing. You got your determination from the Code Enforcement Officer that there is no longer a variance required, so there is no need to move forward with the public hearing. If you want to allow public comment after the hearing.

Patti said she would be happy to hear the public comment.

John said that he would like to invite public comment at this time.

Scott Anzalone (neighbor) said that they are before the board for a new variance when they are in violation of the board's previous variance denial.

John said once the board makes a determination that is solely on the building department.

Scott said all of the plans that you are seeing are still currently in violation of the board's last variance. The plans show a driveway through the 50-foot agricultural buffer, which the board stated that if they were granted the emergency access road what was to stop them from parking there.

John said he doesn't think part of the determination was for emergency use.

Scott said it wasn't, it was to remove the blacktop and everything within that parcel was to be removed. They removed it in November and in January they put the driveway in all around the building. He stopped them today from mowing his property, parking on his property and throwing debris on his property all from the buffer area that is supposed to be natural vegetation. He is not concerned with the building, or them parking on the other side, it has to do with the buffer that protects his property. The buffer is not being maintained. They are saying that they don't need it, that they are not using it, but they are using it. If everything is going to be on the other side, then the overhead door doesn't need to be there, nor should there be any parking there.

John said it is good that the applicant and building department can hear what is going on, but this board cannot do anything about it.

Anthony said that Scott is right they went out there and took the blacktop out, but they were putting down item 4 and he stopped them. They leave and of course now there is a driveway.

Patti said that the Planning Board is aware of this issue and did suggest a gate be placed there.

Scott said this morning they were mowing his property and the owner was parked in the buffer and he told him that they were not allowed to park there. The owner told him that he didn't know. He feels that he shouldn't have to be the one to tell them that they cannot do something.

**Administrative:**

**Minutes to approve:**

June 8, 2023

John asked for a motion to approve the minutes.

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

All ayes, motion passed to approve the minutes.